WHITE HOUSE CONTACTS WITH TREASURY/RTC OFFICIALS ABOUT "WHITEWATER"-RELATED MATTERS—PART 5

Y 4.B 22/1:103-160

White House Contracts With Treasury...

HEARING

BEFORE THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

AUGUST 5, 1994

Printed for the use of the Committee on Banking, Finance and Urban Affairs

Serial No. 103–160

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WHITE HOUSE CONTACTS WITH TREASURY/RTC OFFFICIALS ABOUT "WHITEWATER"-RELATED MATTERS—PART 5

FRIDAY, AUGUST 5, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:32 a.m., in room 2128, Rayburn House Office Building, Hon. Henry B. Gonzalez [chairman of the committee] presiding.

Present: Chairman Gonzalez, Representatives Neal, LaFalce, Vento, Frank, Kanjorski, Kennedy, Waters, LaRocco, Orton, Bacchus of Florida, Klein, Maloney, Deutsch, Gutierrez, Roybal-Allard, Barrett, Furse, Wynn, Fields, Watt, Hinchey, Fingerhut, Leach, McCollum, Roukema, Bereuter, Ridge, Roth, McCandless, Nussle, Thomas, Johnson, Pryce, Linder, Knollenberg, Lazio, Grams, Bachus of Alabama, Huffington, Castle, and King.

The CHAIRMAN. The committee will please come to order.

Good morning.

The panel and beloved brethren, as they used to say in my church, the hearing today is the fifth hearing on the completed phase of the independent counsel's investigation into the so-called Whitewater affair.

Our witnesses today are from the Resolution Trust Corporation. And I want to thank them at the very outset for their cooperation, not only in immediately replying and acceding to our request to appear, but their invaluable help and assistance to the staff in the preparatory work. They will address what they know of the contacts between the Treasury, the White House, and the RTC regarding the so-called Whitewater affair, whatever phase that is applicable to the call of our House-passed resolution.

A major claim has been, the Madison Guaranty Savings and Loan got some kind of special treatment; namely, that the White House tried to slow down or somehow thwart civil and criminal investigations, and the fact is that nothing could be further from the truth. The RTC devoted more energy and resources to investigating Madison than any other institution. Banks with billion dollar asset losses were not scrutinized as much as Madison. The multiple investigation and this committee's hearings have shown one Republican charge after another to be baseless, exaggerated, or distorted. Witness after witness show that none of the Treasury-White House-RTC contacts were illegal, to boot, and add other investiga-

tions, including the special counsel, who has a grand jury as an adjunct help.

None of these contacts were unethical and this is according again to three other investigations, including witness after witness, document after document—and our staff has reviewed thousands of documents—that show nothing was done wrong by the administration.

Was there regulatory misconduct? Well, if the fervent zeal to investigate Madison is misconduct. Was there an effort to thwart any investigation? Today's witnesses will address that question.

And with that, I will recognize Mr. Leach.

Mr. LEACH. Mr. Chairman, the minority has no opening statement, but as previously agreed, will be allowed a closing statement.

We welcome the witnesses before us, and I am pleased to meet some of you whom I have never met before.

Mr. Chairman, if I could request unanimous consent to place in the record some correspondence between myself and the Treasury on the recusal issue of Mr. Altman, as well as place in the record a letter that I have recently written to a colleague in the House.

[The correspondence referred to can be found in the appendix.]

The CHAIRMAN. Now, I want to say to the witnesses that today we will be, of course, conducting the hearing under rule X of our rules of the House and committee and will therefore be swearing you in as we recognize you, which has been the practice in these hearings.

Now, I want to point out, as I have previously, that none of the witnesses are accused of any wrongdoing nor are they under the shadow of any inference of wrongdoing or misdeed of any kind. And again and again, I must point out that this committee is not a judicial body. It is not a court. And it is not a prosecutorial body. That has already been referred to special counsel, and now I think he has been designated special prosecutor.

And I must keep saying that because apparently even those persons that are supposed to be reporting from a knowledgeable and experienced standpoint the proceedings of this body have failed to grasp this very significant and fundamental point. Therefore, no one should infer any negative idea to the fact that the witnesses are being asked to take an oath under other procedures. It is a practice that has been adopted and has been incorporated, as I say and repeat, in rule X.

So unless there is a witness that has some kind of time problem or constraint, we will try to handle the requests as best as we can, and then in light of the consensus, we will try to accommodate. Otherwise, I will recognize you from my left to the right and ask Mr. Hindes to be the first witness and ask you to stand and raise your right hand.

[Witness sworn.]

The CHAIRMAN. The gentleman may proceed.

The staff tells me—and I wasn't aware of this—that the witnesses have expressed a desire that Mr. Ryan be recognized first, and I can see the reason for that. I was just proceeding under the basis that we have done so often before that it is automatic reflex.

So pardon me, Mr. Ryan, but I think that desire is very fitting and proper. So we will recognize you first and ask you to stand.

[Witness sworn.]

TESTIMONY OF JOHN E. RYAN, ACTING CHIEF EXECUTIVE OFFICER, RESOLUTION TRUST CORPORATION

Mr. RYAN. Mr. Chairman, members of the committee, my name is Jack Ryan. I am the Deputy and Acting CEO of the RTC. I became Deputy CEO on January 4 of this year and assumed the role of Acting CEO on March 30, 1994.

I am a career regulator with over 30 years' experience as a senior regulatory official with the Federal Reserve Board and, more recently, with the Office of Thrift Supervision where I have served as the Director of the southeast region of the Office of Thrift Supervision since October 1989.

Over the course of my career, I have helped deal with and manage many of the financial crises that have occurred in the United States during the past 20 years, including Continental Illinois, Penn Square, the foreign debt problem, and the savings and loan crisis, to name a few.

Last December, I agreed to serve temporarily as Deputy CEO of the RTC until a permanent CEO could be nominated and confirmed. When I agreed to the temporary assignment, it was my understanding that the process of selecting a permanent CEO was well under way, and I anticipated my tenure would be limited to a matter of a few weeks. Obviously, that expectation turned out to be incorrect and my job has now expanded to Acting CEO.

As of this moment, I have no idea what the current status of the selection of a permanent CEO is, nor do I know how much longer I will have this responsibility. As I have repeatedly told the RTC staff, I will continue to discharge my responsibilities, including those related to Madison Guaranty, as though I was the permanent CEO, and to the best of my ability.

The RTC is fully cooperating with this committee in the conduct of these hearings. The RTC has provided the information and data requested by this committee and has made staff available for testimony. The RTC is also cooperating fully with Special Counsel Fiske, the Senate Banking Committee, the Treasury Office of the Inspector General, the RTC Office of the Inspector General, the General Accounting Office, and the Office of Government Ethics in their investigations of various aspects of this matter.

During my interview before counsel for the Senate committee and before Special Counsel Fiske, I have been asked a number of questions most of which fell into the following categories: One, how I came to be selected for this job; two, my authority as Deputy CEO, which was the position I held when most of the events that are the subject of this hearing occurred; three, my relationship with Mr. Altman and the administration; four, my knowledge of and/or participation in the Treasury/White House contacts; five, whether I was ever instructed or pressured by Treasury or the White House to influence the investigation or the outcome of the investigation into Madison Guaranty Savings and Loan; and six, whether I have done anything to impede or change the results of the RTC's investigation; for example, did I tell the RTC staff I preferred a finding that Whitewater did not cause a loss to Madison.

I will now cover for the record a summary of my responses to these questions.

I received a phone call in December 1993 while I was in Atlanta with the OTS from Frank Newman, Under Secretary of the Treasury, whom I had known professionally when he was with Bank of America and I was with the Federal Reserve. Mr. Newman's call came not long after the nomination of Stanley Tate as CEO had been withdrawn, and he asked if I would consider a temporary assignment at the RTC.

I traveled to Washington for two interviews, one with Mr. Altman and one with Secretary Bentsen. These interviews were the first time I had ever met either Mr. Altman or Mr. Bentsen. I don't believe the subject of Madison Guaranty came up during these interviews as most of the discussions dealt with morale problems at the RTC and what could be done about them.

At those interviews, I agreed to serve as Deputy CEO of the RTC.

The position of Deputy CEO is a statutory one enacted in the RTC Completion Act. There was no Deputy CEO before me and, as a result, the existing RTC organizational structure and delegations of authority did not provide for one when I arrived. In fact, some of the senior officials of the corporation, by law, reported directly to the CEO. The lack of clear authority in the RTC's corporate structure, together with the temporary nature of my appointment, and the fact that the Deputy Secretary of the Treasury remained CEO created a very challenging environment in which to assume operating responsibility.

Obviously, much of my time in the early days was spent trying to gain an understanding and some control over an organization that is surprisingly decentralized with functional units operating independently of each other. The precise decisionmaking responsibility is not only difficult to explain under these circumstances, but my observation is that it was often not clear to those working at the RTC as well.

During my tenure as Deputy CEO, I reported directly to Mr. Altman who was the Interim CEO. It should be noted that Mr. Altman essentially withdrew from active RTC management following the February 24 Senate Banking Committee's RTC's Semiannual Oversight Board meeting—Board hearing, some 7 weeks after my arrival. During the period preceding the hearing, regular weekly meetings were scheduled to discuss RTC matters, but due to Mr. Altman's busy schedule, many of these meetings actually never took place. The subject of Madison Guaranty came up three or four times during these meetings. The discussions were procedural, and I am quite certain that the substance of the allegations was not discussed.

Let me note that Mr. Altman's instructions to me and the other RTC staff always was to deal with Madison Guaranty the same as the RTC would deal with any other similar organization.

Regarding the meetings and/or contacts between Treasury and the White House, I first learned of the February 2 White House meeting in Mr. Altman's office during a question and answer session being held to prepare for the February 24 hearing before the Senate Banking Committee. I had no prior knowledge of that meeting and was unaware of any other contacts until I read about them in the press.

As the committee is aware, there have been press reports that a Kansas City investigator was told by a visiting Washington RTC attorney that I would like to show that Whitewater did not cause a loss to Madison because it would, quote, "get us off the hook." I have never instructed anyone to do anything but find the truth and to work to see if the RTC had a cost-effective civil case, as is our regular procedure.

In the final analysis, any judgment in this regard should be based on what is actually being done and on the results of the investigation presently under way. During my tenure, the RTC has taken the following steps: First, the reopening of the Madison investigation in light of the extension of the statute of limitations and additional information; second, the request that the Office of the Inspector General review the RTC-generated report on the Rose law firm as well as the billings of that firm with respect to Madison; third, the retention by the Legal Division in February 1994 of Pillsbury, Madison and Sutro to serve as outside counsel to help with the investigation; and fourth, the full cooperation the RTC has given to Special Counsel Fiske. When the RTC has completed its investigation and taken appropriate action, a full report on the matter will be made to this committee. We fully expect to be judged by our actions at that time.

Finally, I wish to state that no one at Treasury has exerted any pressure or instructed me to do anything to influence the RTC's investigation of Madison Guaranty, and I have never talked to anyone at the White House about Madison Guaranty, or anything else, for that matter.

I will be happy to answer any questions the committee might have.

Thank you.

[The prepared statement of Mr. Ryan can be found in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Ryan.

I believe the outline given by staff would have Ms. Kulka as the next witness.

Will you please stand and raise your right hand.

[Witness sworn.]

TESTIMONY OF ELLEN KULKA, GENERAL COUNSEL, RESOLUTION TRUST CORPORATION

Ms. KULKA. Mr. Chairman and members of the committee, my name is Ellen Kulka. I have been the general counsel of the Resolution Trust Corporation since January 17, 1994. Before that, from February 1991 to January 1994, I was the regional counsel for the northeast region of the Office of Thrift Supervision in New Jersey. My first government employment was in this capacity. Other than this period of government service and a few years as assistant professor at the Graduate School of Management at Rutgers University, my entire professional career has been in the private sector where I practiced corporate securities and banking law.

I have been frequently asked how I could possibly have accepted the job I now hold because of the widespread perception that the RTC operates in a difficult environment and might even be characterized as having had a history as a very troubled agency in which

anyone associated with it is subject to disparagement or worse. And it is true that many urged me not to accept the position because of its thankless, grueling nature. I would like to share with you my reasons for doing so, because they are relevant to my perception of my responsibilities.

I was first interviewed for the position of general counsel in the spring of 1993, 1 year after the death of my husband following a 4-year illness. In my more than 30 years of marriage it had been he who had encouraged me to become a lawyer and to take on a full-time career, all this when it was an exception to the acceptable role of a woman with small children. During all those years, I had gladly limited my practice to the New Jersey area because of the needs of my family. In the spring and late fall of 1993, as I weighed whether I should first seek and then accept a position with the RTC, it was my children, who are now young adults, who were the strongest advocates for my doing so.

So, in fact, the overriding factor in my coming to Washington was personal, the desire to start anew with an absorbing and challenging set of responsibilities. This is one circumstance where getting your wish carries with it more than could be anticipated.

From a professional standpoint, I was in fact urged by a number of colleagues and acquaintances seriously to consider taking the job, because they felt that I would bring to it strengths in a number of areas which were important to the task—my love of dealing with novel and difficult problems; my approach to problem-solving, which involved integration of overriding policy or strategic issues with an understanding of pragmatic concerns; and finally, my interest in management as well as in the practice of law.

I understood that I was accepting a position with a short life because the RTC will sunset on December 31, 1995, and thought that this was a plus since it would be hard to make a commitment to such a stressful and demanding position for a longer period. Furthermore, since my personal goals did not involve seeking public office or remaining in Washington permanently—and I have in fact maintained my residence in New Jersey—I could come to the position without worrying what this job might lead to. Therefore, I would be able to maintain my independence. I saw the job as one similar to that which a trustee in bankruptcy performs, managing a complex set of operational—in my case, legal—issues while working toward the restructuring of a massive organization as it winds up its affairs.

In the course of seeking advice from my colleagues about what was most important to weigh in coming to a final decision about accepting the position, one of them stressed the importance of working with a CEO whom you could respect and with whom you shared a common vision of the agency's mission. This seemed to me to be the best advice I had received, so I asked who would be the permanent CEO of the RTC. I was told that a new CEO was expected to be nominated shortly, but his or her identity could not be shared with me at that time. However, a Deputy CEO for the RTC who would have day-to-day operating responsibility was about to be appointed immediately to fill the new position created by the Completion Act which had become effective on December 17, 1993. His name was John E. Ryan. While I had never worked with Jack

Ryan, I had met him while I was at the OTS where he was a regional director for the southeast region, based in Atlanta. More importantly, I knew him by reputation to be strong, smart, and independent and of enormous personal integrity. He had already had a long, distinguished career in bank and thrift regulation. Very pleased, I accepted the position.

The RTC Legal Division has a big job. Over 80 percent of the agency's lawyers provide legal services in connection with the operation and winding up of over 700 receiverships and conservatorships and the sale of hundreds of billions of dollars of assets. Attorneys provide legal expertise in contracting, structuring, and selling real estate assets and securities portfolios, and the myriad of legal issues that any large corporation encounters.

When I came to the RTC, I found a Legal Division that consisted of a number of independent practice areas that were geographically dispersed, providing legal services to various institutional clients within the RTC. I saw that one of my principal objectives was to develop a management structure and philosophy that would integrate the practice areas so that each area of the Legal Division would work with a better understanding of, and regard for, the other areas and the overall goals of the agency.

I also understood that the legal work of the RTC included managing a significant number of professional liability matters in which the agency pursues claims against directors, officers, lawyers, accountants, and others who had injured the savings and loans for which the RTC had been appointed receiver or conservator. To date, these efforts have resulted in collections of almost $2 billion. I knew that the agency had been criticized, on the one hand, for abusing its power and bringing the full weight of the Federal Government to bear indiscriminately on those who rendered services to the S&Ls and, on the other hand, for failing to pursue zealously the wrongdoers who have destroyed a large part of an industry and cost the American taxpayer so much.

I believed and continue to believe that the overriding goal is to pursue in a cost-effective, tenacious, and fair manner the best cases that can be brought against those whose behavior was egregious. The RTC must bring those suits which are cost effective; it is not charged with punishing wrongdoers or prohibiting them from participating in the banking industry. That is the responsibility of other government agencies.

Overwhelmingly, those I have worked with closely in the Legal Division since I have come on board have exhibited extraordinary commitment, integrity, and talent. Preserving the Legal Division's ability to maintain the staff it needs to do its remaining work and to keep morale high is one of the most important and challenging tasks I face.

Thank you.

[The prepared statement of Ms. Kulka can be found in the appendix.]

The CHAIRMAN. Thank you, Ms. Kulka.

I believe the next listed witness is a gentleman who has appeared before us before—and as I recall, at very critical time in RTC, and was most helpful to this committee in his testimony; and that was in the last Congress before this one.

I believe your name is pronounced "roll-lay"?

Mr. ROELLE. Yes, sir.

The CHAIRMAN. I have a tendency to pronounce things in Spanish, and I would have done it the other way around so I remember.

So if you will please rise and raise your right hand.

[Witness sworn.]

TESTIMONY OF WILLIAM ROELLE, DEPUTY TO THE DIRECTOR, FEDERAL DEPOSIT INSURANCE CORPORATION, AND FORMER SENIOR VICE PRESIDENT, RESOLUTION TRUST CORPORATION

Mr. ROELLE. Mr. Chairman, I have no statement.

With one possible exception, I have watched these hearings in great detail, and I have noted that I have been referred to as a Bush holdover, a political appointee, and a number of other things. I believe Congressman Frank has introduced my biography into the record, but for the record, so I will have it before all of you here today, I have worked for the Federal Deposit Insurance Corporation for 25 years. I am not a political appointee; I am a career government employee.

The CHAIRMAN. Thank you, sir. I don't know which proceedings you have been watching. This side or the other.

Mr. ROELLE. This side, sir.

The CHAIRMAN. I don't know whether it has been our good fortune or not, but I think we have kind of zeroed out after the day before yesterday; and I think the TV coverage you might have watched has been mostly over there.

Mr. ROELLE. I try to keep up with both.

The CHAIRMAN. So I think that on our side I have deflected the lightning, so to speak, and done so because I have reminded my colleagues and others that I have more than just responsibility for the rules than simply presiding, but I have to be respectful of the rules that have been erected after many travails similar to this to protect the witnesses in their rights to dignity and respect, as well as the members from demeaning or degrading remarks.

I appreciate the fact because I know that you have been a career employee.

I believe the next witness listed here by the staff, as discussed with you, is Ms. Breslaw.

[Witness sworn.]

TESTIMONY OF APRIL A. BRESLAW, COUNSEL, PROFESSIONAL LIABILITY SECTION, RESOLUTION TRUST CORPORATION

Ms. BRESLAW. Good morning, Mr. Chairman and members of the committee. I am not a political appointee. I have never been a political appointee. I have never worked on a political campaign.

Instead, I joined the FDIC Dallas office in January 1986 as a regional attorney. Since then, I have received four merit awards. I have also been promoted five times. I am now a counsel, grade 15, detailed to the RTC Professional Liability Section. As a permanent employee of the FDIC, I will return to that agency when the RTC completes its mission in 1995.

In my current position, I am responsible for directing and implementing some of the complex litigation which has arisen as the

RTC works to resolve the savings and loan crisis. Virtually, all of my work pertains to the investigation and litigation of civil claims. I do not conduct criminal investigations or prepare criminal referrals. Until I resigned on March 25, 1994, I was a member of the team investigating potential civil claims which may stem from the failure of Madison Guaranty Savings and Loan.

Because I want this committee to understand that I am sensitive to ethical issues, I want to note that I formally recused myself from matters which pertain to the Rose law firm or Seth Ward, the father-in-law of former Associate Attorney General Webster Hubbell, on January 27, 1994. While I was a member of the Madison team, I did not receive assignments which pertained to these matters.

I believe that I have been invited to testify before this committee because of a conversation between RTC criminal investigator Laura Jean Lewis and me, which occurred on February 2, 1994. This committee should understand that no one informed me that this conversation was being recorded at the time that it occurred. Such recording is illegal in many States. Moreover, Ms. Lewis went out of her way to make the conversation appear casual. For example, she encouraged me to sit on the sofa in her office and did not take notes of our discussion. I regarded the conversation as a cursory and unimportant chat at the end of a long day.

I have no recollection of saying that anyone hoped for a particular outcome for the civil investigation. I would emphasize that even Ms. Lewis has admitted that I repeatedly assured her that everyone was seeking honest answers.

Moreover, it is my understanding that criminal investigator Lewis has never been a member of the team investigating Madison civil claims. Ms. Lewis' distance from civil matters is important. Fundamentally, she alleges that my conversation with her had the potential for influencing the outcome of the civil investigation. This simply is incorrect. Ms. Lewis never had any prospect of playing a significant role in conducting the civil investigation. Instead, her involvement was generally limited to gathering records as others requested them.

I gave my conversation with Ms. Lewis no further thought until almost 2 months later when Congressman Leach referred to it in his congressional statement of March 24, 1994. I was surprised by the concerns he professed because I knew that I had not behaved in an unethical manner. Further, I was puzzled by his characterization of the conversation because it appeared to be based only on a page of notes allegedly taken by Ms. Lewis. However, I knew that Ms. Lewis had not taken notes during our conversation. I was, therefore, skeptical of Congressman Leach's description of the meeting with Ms. Lewis. Because I did not believe that I had made the remarks attributed to me, I denied making them in response to questions asked by some members of the press. I still have no recollection of making them.

Congressman Leach did not seek an explanation from me or, to the best of my knowledge, from the RTC before making his allegations public. I am not aware that he ever made a referral to any government body equipped to investigate such issues. It is curious that despite his professed concern about ethical matters, he did not take steps likely to produce answers to his questions. Any fair-

minded person who sought to discover the truth would have made some effort to ascertain my version of events before publicly attacking me from the floor of the House of Representatives.

Although I remain disappointed that Congressman Leach did not make this effort 6 months ago, I sincerely thank this committee for doing so today.

Thank you, sir.

[The prepared statement of Ms. Breslaw can be found in the appendix.]

The CHAIRMAN. Thank you very much.

I believe our next witness is Mr. Stephen Katsanos.

[Witness sworn.]

TESTIMONY OF STEPHEN KATSANOS, RESOLUTION TRUST CORPORATION

Mr. KATSANOS. Mr. Chairman, I have no prepared statement.

The CHAIRMAN. Well, nothing we can swear to.

Let's see and the next one is Mr. Hindes, and he has already been sworn in.

Mr. HINDES. Yes, and I have no prepared statement, Mr. Chairman.

The CHAIRMAN. OK.

The next witness and final one is—I believe the staff has pronounced your name as James Dudine.

Mr. DUDINE. That's correct, Mr. Chairman.

The CHAIRMAN. Will you please rise.

[Witness sworn.]

Mr. DUDINE. Mr. Chairman, I have no prepared statement.

The CHAIRMAN. Again, let me thank the witnesses. The staff has reported to me that they have had the fullest cooperation, no obstacles were ever interposed; and I think the record ought to show that.

To Chairman Neal for 5 minutes of questioning.

Mr. ORTON. Mr. Chairman, before Mr. Neal goes ahead, I have a parliamentary inquiry.

The CHAIRMAN. State your inquiry.

Mr. ORTON. It is regarding the scope of this hearing and the questions we can ask this panel. As I understand, the special prosecutor has concluded the Washington phase which deals with the contacts between Treasury and RTC and the White House, but may be continuing investigation on some activities in Kansas City or, fully, in Arkansas itself, so I am wondering if the chairman could explain to the committee the scope of this particular hearing—which types of questions or which areas, if any, we should not go into that Mr. Fiske may be continuing to investigate.

The CHAIRMAN. Will the gentleman yield to me here? Was the gentleman here at the time I made my opening statement?

Mr. ORTON. I was here, but I didn't hear you on that particular issue.

The CHAIRMAN. I thought I had set out the reason for the witnesses being here.

The question, which is under the agreed bipartisan leadership definition of House Resolution 394, was whether or not there had been any improper obstruction of the legal or otherwise processes

on the part of the RTC personnel; and that phase has been completed, and this is why the witnesses are here, as I said in my opening statement.

Was there any effort to thwart the investigation; that is, of Madison? Today's witnesses will address that question. So that anything still under the request of the special counsel remaining in the unfinished, so-called Washington portion of his investigation that has to do with the deceased Mr. Foster's papers, not the circumstances of his death, that was decided; and also the Little Rock phase which he has yet to either reach any point of decision, or as I understand it, is still in the process of investigating.

So outside of that, why, the question here is to what extent; and the witnesses, as you heard, those that have had leadership responsibility and administration have already answered forthrightly, I thought.

Mr. WATT. Mr. Chairman, parliamentary question.

The CHAIRMAN. Yes, sir, state it.

Mr. WATT. I was not here during your opening statement; maybe you addressed this issue. I notice there was one witness who has a name tag there, but is not here. Did you address that issue and why that occurred?

The CHAIRMAN. No. We were going to place in the record my letters of invitation to the witnesses, including the absent witness, who has an attorney and whose attorney replied to us, I believe either yesterday or late the day before yesterday, to the effect that she would not appear today. But we were not absolutely sure, but thought she, on her own, might want to appear, so we have a place for her.

Mr. FRANK. That was very considerate, Mr. Chairman.

The CHAIRMAN. Well, we had that happen before and we also had nothing more to me than a rumor that despite her attorney's notice, that she might on her own appear so—but the fact is that her attorney replied and said she would not appear at this morning's hearing in answer to our request.

We haven't subpoenaed anybody, but let me say that this is the first witness we have asked that has not acceded to our request and appeared to testify. And we respect their desire, their decision.

Mr. NEAL. Mr. Chairman, on this point, did the attorney give a reason? Would it interfere with her book contract, or what was the reason?

The CHAIRMAN. That is—just a minute.

Mr. LEACH. Point of order, Mr. Chairman.

The CHAIRMAN. That is not proper.

Mr. LEACH. Point of order, Mr. Chairman.

The CHAIRMAN. Yes, sir, state it.

Mr. LEACH. There has been an impugning of a potential witness, and accordingly, I would ask unanimous consent that the letter from Mrs. Lewis' attorney be placed in the record.

The CHAIRMAN. Yes.

Mr. LEACH. I would also point out that Mr. Fiske declined to appear. I would also point out that the reason given by Mrs. Lewis' attorney is that given the constraints of Mr. Fiske, the only thing that she can testify upon is the conversation with Ms. Breslaw and nothing else.

Ms. Lewis indicated in her letter that she is fully prepared to come and testify before this committee on the substance of the investigation, which is what she has most been involved in and looks forward to coming and testifying before the committee.

Mr. KLEIN. Point of order, Mr. Chairman.

The CHAIRMAN. Well, let me reply to this.

First, I stand corrected. We did request, or invite the special counsel; and realizing that it would have been unprecedented even if he had accepted, we didn't follow through in any way to try to compel. So to that extent, this is not the only witness we have invited that has not appeared.

To the extent that her attorney's letter, which I was going to include with all of the letters of invitation and whatever replies we had in writing, the gentleman's request, of course, is proper and that letter was intended to be a part of the record.

Mr. LEACH. Will the Chair yield on a parliamentary point?

The CHAIRMAN. Yes.

Mr. LEACH. With regard to the observations of the gentleman from North Carolina, if Ms. Lewis were a publicity hound, she would be here and I think that the gentleman's comments should be noted.

The CHAIRMAN. Mr. Leach, I must point out to you that I made the observation to Mr. Neal that that was not within the purview of his inquiry, so in that respect, I ruled.

With respect to whether or not given the fact, as one of our witnesses here has indicated, that indeed there was an involvement over and above the attorneys, that is a question that we will decide; and as we go down the line, I will ask the gentleman what his wish is with respect to summoning Ms. Lewis. But at this point, let's proceed with regular order.

Mr. BARRETT. Mr. Chairman, if I could follow up on a parliamentary inquiry regarding Ms. Lewis.

Mr. Leach stated that she would be willing to come before the committee, as I understand it, to talk about the substantive matters. It was unclear to me whether she was willing to come before this committee to discuss her conversation with Ms. Breslaw, who is here today.

The CHAIRMAN. Well, Mr. Barrett, at this point, the Chair stated that this is an issue that at this point we will dispense with because it is not germane at this point to the proceedings. And we must proceed.

Mr. BARRETT. Mr. Chairman, I think—with Ms. Breslaw here, I think it is important for us to know whether we are ever going to be able——

The CHAIRMAN. I stated at the time that when we reach that point we will decide what it is the committee wants to do and whether or not it is its wish to ask to subpoena Ms. Lewis to appear. But at this point.

Mr. WATT. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. Well, what is the parliamentary inquiry?

Mr. WATT. I simply wanted to inquire when she does appear, since she is part of this witness list, will we be guaranteed a separate 5-minute period for examining her? That was the only question.

The CHAIRMAN. Again, it depends. If Ms. Lewis—and if it is the wish of the committee that she be summoned or subpoenaed, whatever, and she appears, we will follow the rules of the committee, and that is that every member of this body has 5 minutes guaranteed under the rules to ask questions of a witness.

So I will just say that at this point.

Mr. MCCOLLUM. Parliamentary inquiry, Mr. Chairman, if I could.

The CHAIRMAN. State your inquiry.

Mr. MCCOLLUM. Mr. Chairman, isn't it true that the scope of our hearing today—this week and last week—has been restricted? So I thought we weren't supposed to be looking at what went on in connection with Kansas City. I thought that was the narrow scope that you had imposed, or rather, that had been imposed on us.

The CHAIRMAN. First, let me say that it is really not a parliamentary inquiry, and second, that has been answered.

We explained the scope and the reason why these witnesses are here, and it has to do with that portion of the investigation under way now by the special counsel that has been completed. So let's proceed.

Mr. MCCOLLUM. Further parliamentary inquiry, Mr. Chairman.

If we are going to be doing that, shouldn't we look at the entire Kansas City operation and bring all the other witnesses that were there?

The CHAIRMAN. That question has already been answered. We are going to stay within the scope. And that is our intention, and the Chair will rule in accordance with scope as questions are asked, but let's proceed with the question period.

Mr. Neal.

Mr. NEAL. Thanks, Mr. Chairman.

Mr. Chairman, for months now, millions of words, literally millions of words have been written and spoken about what is now called Whitewater. For months, there have been constant barrages of innuendo, insinuation, guilt by association, vague, sinister-sounding generalities. It says that administration officials may have done something or could have, might have, gave the appearance of, done all sorts of outrageous things, all sorts of speculations, all sorts of accusations of sleaze, impropriety and worse. People's reputations have been smeared. The whole thing is a smear.

The purpose has been to weaken the President of the United States, to inhibit his ability to fulfill his constitutional responsibilities. And it is working. Even Mr. Cohen reports here in the *Washington Post* that even though we have had thorough investigations by everyone that anyone has asked which they have all found no criminal activity, no ethical improprieties, to most people it seems just the opposite because of this smear. He also says people are unaware of Mr. Clinton's accomplishments and you know, in all of this, almost no specific allegations of anything. Just smear.

Now, we have an allegation. At our last hearing, Mr. Leach said it may be true that criminal referrals were not effectively blocked, but it is not true that an effort to do so was not made. It is a little awkward, but what that says is that there was an obstruction of justice, a criminal act by the RTC.

Now, we have a panel of people here that can tell us about that. That is what I want to find out about. We finally have a specific

charge. The question is, was there an obstruction of justice at the RTC? Was there, as Mr. Leach says, an unprecedented legal review of the documents that led to this referral being delayed? Is it an unprecedented process to run legal referrals through Washington?

I guess I will start with you, Mr. Ryan. What is the policy on this?

Mr. RYAN. The policy of the RTC is that almost all of the criminal referrals are handled in the field. Very few of them come to Washington. There was, however, in I believe June 1993, a policy that there would be a legal review of criminal referrals that would be made in the field by the lawyers in the field. And that policy was instituted, I believe it was June 1993.

Mr. NEAL. Why was that policy instituted?

Mr. RYAN. It is my understanding—and let me say, this is long before my arrival at RTC—it is my understanding that the genesis of that legal review was several meetings or a meeting that occurred between the various banking agencies and the Department of Justice. The Department of Justice lawyers were being criticized for not following up on more of these criminal referrals and getting more indictments, and there was this meeting with the agencies that was more or less designed to try to improve the quality of the criminal referrals.

Mr. NEAL. Was this particular situation unprecedented then? The one that I referred to?

Mr. RYAN. I don't believe it was, no.

Mr. NEAL. Was there an attempt to obstruct justice, to somehow improperly——

Mr. RYAN. Not to my knowledge. And I have to go back and say that this occurred before——

Mr. NEAL. How about Mr. Dudine? I understand he has—implements these policies.

Mr. DUDINE. Congressman, I think Mr. Ryan stated it fairly correctly. I could say also, though, that we had intended all along to establish criminal coordinators in each of our offices—one legal coordinator, one investigative coordinator. It really wasn't until January 1993 that we had the legal people in place to do that.

In January 1993, we conducted a conference of all of the people from the field. We explained that our policy in the future would be a requirement that a lawyer, a legal criminal coordinator that had been trained in criminal matters would review criminal referrals before they went to the Department of Justice.

There are many reasons for that. Primarily, I guess, to make sure that people in the Legal Division are consulted about what types of transactions might be referred for criminal prosecutions so that any impact that might have on any civil actions that the lawyers in the field office are taking would be taken into consideration. Quality control was part of the issue.

But it was fairly—I believe there was some discussion at that conference about what the review meant, and the bottom line really was that it was a consultation rather than an approval process and that the field office managers were to go back and try to work out among themselves what is the best way to implement that policy.

It wasn't until June 1993 that the formal policy was actually issued.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Leach.

Mr. LEACH. Thank you. Just as a very quick observation, let me respond briefly to Ms. Breslaw. The taping that occurred was done legally. We did not put anything in the record until we ascertained that it was a legal although one might say insensitively done taping.

The second point I would like to make is, my office several times requested in December and January that Ms. Breslaw be produced for witness discussions with our staff; and the RTC refused. I think that should be on the record, whether you were aware of it or not; you can check with your office.

I would like to ask Mr. Dudine, isn't it unusual for a criminal referral to be sent to Washington before it is sent to the Justice Department?

Mr. DUDINE. It is unusual.

Mr. LEACH. Isn't it unusual for the Washington RTC office to send to Kansas City information to help in the construction of the legal analysis related to the production of the criminal referral?

Mr. DUDINE. I am sorry. Could you repeat that?

Mr. LEACH. Is it not true that the Washington legal office sent to Kansas City certain documents to help in the construction of the——

Mr. DUDINE. I am not aware of that.

Mr. LEACH. Critique of the referrals which up to that point in time, from Kansas City's perspective, was unprecedented. Was a legal analysis attached to or sent at the same time to the Department of Justice; that is, to Little Rock with the criminal referral?

Mr. DUDINE. Mr. Leach, I am not aware even that that was done in this case.

Mr. LEACH. Well, you testified to the IG, the inspector general report that you said a legal analysis——

Mr. DUDINE. That's correct.

Mr. LEACH. You also indicated that in the majority-minority interview. Are you now saying that is not the case?

Mr. DUDINE. What I am saying, Mr. Leach, is that the document was prepared, but I have no knowledge that it was actually sent to the Justice Department along with the referrals.

Mr. LEACH. That's what you testified to the IG, that's what your words were.

Mr. DUDINE. I'd have to review the text.

Mr. LEACH. I see.

Mr. DUDINE. But I certainly——

Mr. LEACH. You're now saying that that may not be the case?

Mr. DUDINE. To my knowledge, that document was not transmitted to the Justice Department.

Mr. LEACH. So you are changing what you said to the IG and/or——

Mr. DUDINE. I believe that was—I believe that's what I stated in the deposition.

Mr. LEACH. I see.

The CHAIRMAN. Just a minute.

Will you yield here?

Mr. LEACH. Yes.

The CHAIRMAN. You said then you're changing. The witness has not said he has changed anything. I think that ought to be clear, Mr. Leach.

Mr. LEACH. What was the document that was sent?

Mr. DUDINE. The criminal referrals.

Mr. LEACH. And then you also said a legal, something from the Legal Division was also sent. What was that document?

Mr. DUDINE. Congressman, I did not send the criminal referrals. The criminal referrals were transmitted from Kansas City.

Mr. LEACH. I know, but what was it you were referring to in the IG interview and also with our staff?

Mr. DUDINE. It is my understanding, the referrals were transmitted to the U.S. attorney as they normally would be from Kansas City. I am unaware of any other documents prepared by the Legal Division that were transmitted to the U.S. attorney at that time. I am aware that a document was prepared by the Legal Criminal Coordinator in Kansas City.

Mr. LEACH. But you testified before the IG that it was also forwarded at that time.

Mr. DUDINE. That was not—to the best of my knowledge, that was not my testimony to the IG.

Mr. LEACH. Mr. Roelle, re Ms. Hanson and her discussion of September 30 with Mr. Sloan, Mr. Sloan's notes indicate the first words are Bill Roelle, which imply the possibility she had talked to you, I don't know. She, in these notes, described the criminal referrals. She also described certain process things, that is that the referrals would be sent to Little Rock on a given date. Did you provide her that information?

Mr. ROELLE. I don't know—I provided her some information on the criminal referrals. I did not know that the criminal referrals had even come to Washington at that time. I have subsequently found that out.

Mr. LEACH. How would she have known if she didn't get the information from you?

Mr. ROELLE. I have no idea.

Mr. LEACH. I see.

Are you aware that Mr. Curtis had a conversation with the vice president, Mr. Cavanaugh, of the Kansas City office to urge a delay, a week delay, be taken while the legal analysis was developed?

Mr. ROELLE. No, sir.

Mr. LEACH. Thank you.

The CHAIRMAN. Mr. Neal.

Mr. NEAL. I want to pursue this matter. On August 3, Mr. Leach issued a statement, and he mentioned that——

Mr. LEACH. Regular order, Mr. Chairman.

Mr. FRANK. He yielded. You may not be familiar with that practice, but one member yields to another.

Mr. NEAL. Mr. Leach has suggested that the RTC has delayed and objected to criminal referrals, has delayed criminal referrals. He refers to an unprecedented legal review of documents regarding these referrals.

Now, you just testified that it has been your policy since June, that there be a review. And Mr. Dudine, Dudine, I'm sorry, I didn't

get that right, but I didn't—I wasn't clear on your answer. I have a copy here of a Resolution Trust Corporation memo. It's to all RTC investigations department heads, all investigation staff, all assistant general counsels, all litigation—all litigation professional liability, and so on, from you, and others and RTC. And it's June 17, 1993, and it says, the purpose of this is to consolidate instructions and guidance on making criminal referrals to the U.S. Department of Justice. And it goes on, I believe, to say that those—let me ask you, you developed this, would you go ahead and describe what this says?

Mr. DUDINE. That is the policy that I spoke of. It was developed to consolidate existing policies and also to carry out some of the things that were determined at the conference that was held in January. One of those was a decision that was made at that time that a legal review would be required for all criminal referrals.

Mr. NEAL. In Washington?

Mr. DUDINE. Yes, sir.

Mr. NEAL. In Washington.

So is there anything unprecedented about the matter that Mr. Leach refers to?

Mr. DUDINE. I'm sorry, if I can correct that. Legal re—the legal review—the decision to make the legal review was made in a conference that was held in Washington, the policy decision.

Mr. LEACH. Is that——

Mr. NEAL. Is this a routine normal matter? I'd ask Mr. Leach's question. Mr. Leach is charging that this particular situation was treated differently than others.

Mr. DUDINE. I think we're confusing things. The policy—the decision that lead to the directive that was sent in June was made at a conference that happened to be held in Washington. The legal review required by the document is to be held—to be conducted in the field office, prior to the field office sending referrals to the U.S. attorney. The only difference is that prior to this policy, the legal review was not required, it was conducted in some offices, in other offices, it was not.

Mr. NEAL. Do all of them argue about this, fight about this?

Mr. DUDINE. Well, there have been some differences of opinion in how to apply the policy in other offices as well.

Mr. NEAL. Well, it's—what I'm trying to get at, Mr. Leach is, it sounds to me, making a serious charge. He's charging that somehow criminal referrals regarding Madison were treated differently than others are. Is that true?

Mr. DUDINE. In an attempt to carry out the policy, given the fact—given the fact that there was a dispute or some disagreement about how to apply the policy in Kansas City, I made the decision to ask for the referrals to be sent to Washington in an attempt to mediate the dispute in the field and to make sure that we got the referrals moving forward.

This was a very critical period, in that notification had already been made by the vice president to Mr. Roelle and presumably to others beyond Mr. Roelle. And the referrals were not—had not yet been sent to the Department of Justice.

Mr. NEAL. Was it successful?

Mr. DUDINE. Yes, sir.

Mr. NEAL. There was no delay?

Mr. DUDINE. There was a delay to allow for the—for the review by the legal people in Kansas City. But as a result of my review in Washington, I think that that review took place expeditiously and the referrals were in fact sent on without—with undue delay. I intended only to move it along.

Mr. NEAL. I just don't see the issue here.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCollum.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

I think that the inquiry of Mr. Leach was perfectly proper, but I'm not going to explore this further at this point, because I think we need to establish some things on the record this morning.

Several of you have not given testimony this morning, and yet there are some very important things that we understand from our interviews and from other comments that have been stated in other forums that need to be brought out to lay a predicate for any other questioning I suspect today. And one of those is you, Mr. Roelle. I want to ask you a series of questions, if I could, to establish some things that we can put on the record.

It's my understanding that there were two sets of criminal referrals, one in 1992, September 1992, dealing with the Whitewater and potentially involving the Clintons, and the second one, a set in September 1993, at least that's when you became aware of them. There were nine of these at that time, correct? Is my understanding also correct that there were two sets?

Mr. ROELLE. There were two sets, yes. The first one was a criminal referral.

Mr. MCCOLLUM. A single referral. The second set there were nine, right?

Mr. ROELLE. Yes, sir.

Mr. MCCOLLUM. Is my understanding correct that you briefed Roger Altman who was at the time acting head of RTC on the first single criminal referral, the September 1, 1992, shortly after he became the head of RTC, sometime around March 22, 1993?

Mr. ROELLE. Yes, sir, I did.

Mr. MCCOLLUM. Mr. Altman has no recollection of that, but you're quite confident you did that; is that not correct?

Mr. ROELLE. That's correct.

Mr. MCCOLLUM. And let the record show also, Mr. Chairman, that it was the day after that, on March 23, 1993, that Mr. Altman had a fax that went over to Mr. Nussbaum with a copy of Whitewater material in it.

Mr. Roelle, it is further my understanding that you called Mr. Altman on September 27, 1993, the day after you first received and found out about the second set of the nine criminal referrals from Mr. Cavanaugh, the head of the Kansas City RTC office, to talk to Mr. Altman about these new nine criminal referrals. Is that understanding correct?

Mr. ROELLE. No, sir.

Mr. MCCOLLUM. All right. Please explain.

Mr. ROELLE. I never received the criminal referrals. I was called by——

Mr. MCCOLLUM. But you found out information, though, from Mr. Cavanaugh about them?

Mr. ROELLE. Yes, sir.

Mr. MCCOLLUM. What did you find out from Mr. Cavanaugh?

Mr. ROELLE. I found out that there were going to—maybe it would be instructive if I just went through the sequence of events. I don't know, I don't want to take your time, but I know how this works. I'll leave it up to you.

Mr. MCCOLLUM. Well, if you could just tell us—you got a series of criminal referrals from Mr. Cavanaugh, I believe, the day before you called Mr. Altman. You didn't get the referrals, you got, what, a summary of them?

Mr. ROELLE. What I—Mr. Cavanaugh called me, actually didn't call me, he E-mailed me and another official at the RTC that there were some criminal referrals. That was on the evening of the 26th.

Mr. MCCOLLUM. Right.

Mr. ROELLE. I called Mr. Cavanaugh, along with the other person, and we asked him what was this all about. He indicated that there were some criminal referrals coming to Justice, and then he mentioned that they would have mention of the President. And he explained a little to the extent he knew it at that time, and I indicated to him it sounded a lot like the criminal referral that I had seen before, the one that went a year earlier.

He said, no, he's pretty sure this was some new ones. I said would you please check on that and get back to me first thing in the morning?

The next morning I didn't hear from him, so I called him and said, what did you find out? And he said, no, they're new. And I said, all right, I'm going to have to report this to the CEO, can you give me a brief rundown? He gave me a brief rundown of each of the criminal referrals.

Mr. MCCOLLUM. In writing?

Mr. ROELLE. No, I took notes.

Mr. MCCOLLUM. All right. Let me ask you this.

When you talked to Mr. Altman to give him this briefing, he actually sent you to talk to Ms. Hanson; did he not?

Mr. ROELLE. That's correct. He—I talked to him for maybe 5 minutes. He said, I really don't have a full appreciation of what you're explaining to me, could you please discuss this with Jean Hanson? I said I would be happy to.

Mr. MCCOLLUM. And then you called Jean Hanson; is that correct?

Mr. ROELLE. I believe so. I am not sure whether she called me or I called her.

Mr. MCCOLLUM. But you talked to her about it?

Mr. ROELLE. Yes, I did.

Mr. MCCOLLUM. And at that time, you did give her a rundown including each of the referrals that you had received?

Mr. ROELLE. I gave her a one—what I would consider a one-line, but very specific rundown of each of the criminal referrals. Because I basically gave her what each criminal referral's charge was.

Mr. MCCOLLUM. Did she at that time ask you if she could examine the referrals themselves?

Mr. ROELLE. No. That was interesting, I heard her testimony the other day. It wasn't quite the way it went, or at least by my memory. But it was very similar.

We discussed two things: She asked me, do you think it would be appropriate for these criminal referrals to be seen by Mr. Altman? I indicated I did not think it would make any sense because they would already—I had already been notified they were completed, we typically don't look at the criminal referrals in Washington, that they are just for your notification so you'll be aware we're doing this. And I really saw no point in doing it.

And she said, all right, I will take that up with Mr. Altman. And we also discussed keeping the referrals confidential. It has been reported that I indicated that she should not discuss this with the White House. I did not say that. I told her—in fact, I didn't even tell her until after the fact. I asked her, who had you planned on discussing these referrals with besides Mr. Altman? And she said, well, I really don't know.

In my mind, and I don't know what was in her mind, but in my mind, I really had reference to other Treasury officials. Because we had several Treasury people at RTC staff meetings on a continuing basis, and I felt like that they should not be discussed with anybody. So I indicated that in my judgment that these criminal referrals should not be discussed with anybody.

Mr. MCCOLLUM. And you didn't even——

The CHAIRMAN. The time of the gentleman has expired.

Mr. LaFalce.

Mr. LAFALCE. Thank you very much, Mr. Chairman.

First of all, I want to thank all the civil servants for coming before the committee today. Yours is very often a thankless task. It's one thing not to go rewarded. It's another thing to sometimes have to undergo false characterization, adverse scrutiny, especially if there's virtually no justification for it.

Let me turn my attention, Ms. Breslaw, to you. Much has been made of a conversation you had with Ms. Lewis, who unfortunately is not here today. It's been unfortunately characterized almost as a sinister conversation, trying to prove that you were saying something that some people wanted to say so desperately that perhaps somebody should find something that wasn't there to be found, or somebody should come up with some information that would exculpate prominent individuals, and so forth, and so forth.

I'd like to go into two things: I'd like to go into how this conversation took place between you and Ms. Lewis. Did you go to Kansas City seeking her out? And then I want to go into the conversation itself. Because I have what purports to be a transcript of a secretly recorded conversation, and in all candor, as I read it, it seems to me like the most innocent conversation in the world. And if anybody is trying to make something evil out of this, they must have evil motive and intent themselves. I think it's that bad.

Now, I'm chairman of the Small Business Committee. I conducted an investigation of some allegations regarding Senator Robert Dole just before the New Hampshire primary. Did I want to conclude, after I saw all the evidence, that he was not involved? You bet I did. I wanted, I hoped the evidence would say there was

nothing wrong there so I wouldn't have to have any public hearings. I wouldn't have to go after somebody like that.

I conducted an investigation of the activities of Neil Bush, the son of the President, because of his activities with an SBIC, a small business investment company. Did I hope that there would be nothing wrong there with the son of the President? You bet that was my hope. That didn't mean it wasn't the most thorough investigation possible. We didn't have any public hearings after that, no press conferences, because we were not trying to bring the reputation of any individual down.

You said, according to this transcript, I think, "if they could say it honestly," if they could say it honestly—"the head people would like to be able to say Whitewater didn't cause a loss to Madison. We don't know what you're going to find, and we don't offer any opinion on it. How could we get to a definitive answer?"

Personally, for anybody to try to make that look more than a totally innocent statement makes me doubt the sincerity of those individuals.

Tell us, Ms. Breslaw, how this conversation came to take place.

Ms. BRESLAW. Well, sir, I would like the record to reflect that I have not seen the transcript that you're referring to. And I would like to reiterate that I have no recollection of making the more controversial remarks that you referred to.

However, it is my understanding that Ms. Lewis has always conceded that I said that everyone was looking for honest answers. I think something that's important to highlight—and actually my testimony was a bit longer than the portion that I presented. In my testimony, the full version, on page 7, I have a description of the process, to some extent, that would be followed with civil investigations.

And I think it's important to understand that I was sent to Kansas to gather information on a series of matters relevant to our civil investigation. Speaking with Laura Jean Lewis was not the main objective of the trip. And as I have stated, to the best of my knowledge, she was not even a member of the team investigating civil claims.

Again, in the longer version of my testimony on page 8, there is a recitation about the events that occurred that day. I was only in Kansas for 1 day. And quite frankly, it was the first time that I had visited the Kansas office and it was the first time that I had ever met Laura Jean Lewis.

I think it's worth noting that I did not reach out to speak with her as soon as I got there. In fact, during the course of the day, I was prodded several times by her supervisor, Richard Iorio, to go speak with her. And it was not until after I had finished working on the various assignments that I had, the very end of the day, at his suggestion that I was escorted by him down the hall to her office to speak with her.

My recollection of the entire conversation is dim and part of the reason for that, as I believe I've noted in a footnote at the end of my testimony, is that as of February 2, I was assigned a number of other matters in addition to participating on the Madison team. I believe I had responsibility for 13 other—13 lawsuits and 3 other investigations.

So to me the conversation with Laura Jean Lewis was very casual. I did not attach much importance to it at the time. Between February 2, the day the conversation occurred, and the end of March, when Congressman Leach made his statement, I had scores of conversations with other investigators all over the country about scores of other matters. So to me this was not an important conversation and my recollection of it is fairly vague.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. Roukema.

Mrs. ROUKEMA. Thank you, Mr. Chairman.

You know, one of our colleagues earlier said that we all know what was going on here, was the President, the Executive, discharging his constitutional responsibilities. Well, I want to stress again as I have previously, that what this is about is Congress discharging its congressional responsibility for oversight and really complying with our constitutional responsibility for the checks and balance systems of our form of government. But unless we can get full disclosure, that is the truth, the whole truth and nothing but the truth, we can't really discharge our responsibilities.

And I guess what has caused many of us and the public to question what is going on here, is this astounding system of selective amnesia. Every time we get to something that's really relevant, focusing on what did the RTC tell the White House or vice versa, there's selective amnesia.

I don't have time enough to go into all of it, but it's well known both here and in the Senate hearings, about Altman and Hanson and Steiner and other members of White House staff, as soon as you get down to something specific, it's, gee, I don't recall. But on other things that are insignificant they have very precise—or contradictory, they have very precise information.

Now, Mr. Roelle, I'm sorry that you didn't give a full statement, because our time is so limited, it's hard for us to get at the facts from you, a career official, and I respect your position here. But I didn't understand what your response was with respect to when you found out that Jean Hanson had briefed the White House about the criminal referrals, and what your reaction was to that. I didn't understand your response to Mr. McCollum on that subject.

Mr. ROELLE. I don't recall being asked that question.

Mrs. ROUKEMA. Oh, all right, I'm sorry.

Well, then I thought that your final answer referred to the criminal referrals, and I didn't get your response to that. But let me ask the question my way then.

When did you find out that Jean Hanson had briefed the White House about the criminal referrals?

Mr. ROELLE. Through the press when I saw the—the first time I knew that there had been discussions with the White House is when Mr. Altman indicated there had been in his testimony on February 25, when I was watching it at home.

Mrs. ROUKEMA. I see. And what was your reaction at that time? And by the way, did you—did you—was your reaction that he had given complete testimony?

Mr. ROELLE. I didn't know. I wasn't—I left the RTC at the end of December. So I wasn't there regarding those matters.

Mrs. ROUKEMA. All right. Then with respect to that specific time-frame and his specific testimony, what was your reaction?

Mr. ROELLE. It wasn't disclosed in his testimony. He—as I understood it, he had—and my recollection is not good here, but he had testified that he had had a meeting with the White House regarding this matter. And I—my honest reaction was——

Mrs. ROUKEMA. I want your honest reaction.

Mr. ROELLE. Was I was not happy that that had happened.

Mrs. ROUKEMA. Can you amplify on that? You were not happy, what does that mean?

Mr. ROELLE. That means, I don't think—I don't think that matters——

Mrs. ROUKEMA. It shouldn't have been done?

Mr. ROELLE. Pardon me?

Mrs. ROUKEMA. You didn't believe it should have been done?

Mr. ROELLE. That's correct. I believe as I've testified before, without getting in the legality or the ethic standards that have been discussed on both sides here, that criminal referrals, although at that time, I wasn't aware of the—criminal referrals had been discussed, it was more that there had been discussions with the White House regarding the Madison matter, I just believed those things shouldn't have occurred.

Mrs. ROUKEMA. Thank you, Mr. Roelle.

I yield to Mr. McCollum.

Mr. MCCOLLUM. One last quick question.

Why would you want these matters discussed? What's the basic principle here, Mr. Roelle.

Mr. ROELLE. I can't spec—why didn't I want——

Mr. MCCOLLUM. Just as a matter of principle, why wouldn't you want it, what's the principle involved here?

Mr. ROELLE. I've testified before that there are two matters that always occur to me in dealing with these matters. One is that if your criminal referrals are inaccurate, incorrect, or wrong, you will do severe damage and perhaps destroy the individual that's mentioned in the criminal referral. If your criminal referral is correct and you actually have discovered criminal wrongdoing and the Justice Department seeks to go forward, then you have told, in effect, people that they're subjects of a criminal referral and you can compromise your case. I think both of those issues to me has always been the reason why I believe you should not discuss criminal referrals.

Mr. MCCOLLUM. Thank you.

The CHAIRMAN. The time of the gentlelady has expired.

Mr. Frank.

Mr. FRANK. Thank you, Mr. Chairman.

I do have one very important question, but it is beyond the scope, so I'm not going to pursue it. But I am wondering whether there's a policy at the RTC for people to insist on pronouncing the last "E" in their name when it should be silent and otherwise to confuse people. I think Mr. Dudine, Mr. Roelle, will have to address that at some other point.

What I do want to talk about is February. Much has been made of the February 2 meeting at which Mr. Altman deferred his recusal. And the inference some have drawn is that he deferred his

recusal at the request of the White House so he might be able to take some actions that would be preferential to the President. So I have a question for Ms. Kulka.

The law firm of Pillsbury, Madison and Sutro, which employs Jay Stephens, when were they hired by the RTC to look into this matter?

Ms. KULKA. I believe they were hired about the end of the first week in February.

Mr. FRANK. In other words, shortly after the meeting at which Mr. Altman deferred his recusal, the next thing that was done by the RTC in conjunction with this was to hire Jay Stephens?

Ms. KULKA. I don't know if it's the next thing, Congressman.

Mr. FRANK. It was one of the next, it happened within a few days afterwards?

Ms. KULKA. Apparently.

Mr. FRANK. I think that just shows conclusively that the decision by Mr. Altman to defer the recusal had absolutely no negative effect on this case whatsoever, and matter of fact, one of the harshest things that could have been done, hiring Mr. Stephens, was done.

Did anybody, Mr. Altman, in any way, try to derail the hiring of Pillsbury, Madison and Sutro, which is Mr. Stephens' law firm?

Ms. KULKA. Mr. Altman had no involvement in the management of the prosecution of the investigation.

Mr. FRANK. So during the period between Mr. Altman's February 2 meeting when he deferred recusal, and when he did recuse on February 25, Jay Stephens was hired, assigned to work on the civil parts of this case, and Mr. Altman never tried in any way to stop that?

Ms. KULKA. The firm was hired and a number of attorneys, including Mr. Stephens, have worked on the case in that period.

Mr. FRANK. Next question I have is this. It does go to Mr. Dudine. Mr. Leach did make a very strong accusation, he raised it with Ms. Hanson, that the kind of rebuttal to the criminal referral that was prepared by RTC or a challenge to it was sent over to the Justice Department. And I—we have a conflict here, and I believe it's an honestly motivated conflict, although I would note we're talking about a conflict in interpretation of a deposition Mr. Dudine gave less than a month ago.

So people who find it hard to believe that people could disagree about the details of conversations of 6 and 8 months ago, ought to understand we're about now to discuss the Dudine-Leach disagreement, an honest disagreement, over a 1-month-old deposition. But Mr. Leach, I believe, said, Mr. Dudine, that in your deposition you said that the kind of rebuttal had been referred. You said it hadn't been. To your knowledge, is that—was that document referred along with the criminal referral to the Justice Department?

Mr. DUDINE. To my knowledge the document was not referred.

Mr. FRANK. All right. I have the deposition here. I understand it is a matter of public record. I would yield to Mr. Leach, if he could show me where in the deposition it says that.

Mr. LEACH. We also have minority and majority staff interview notes. Let me——

Mr. FRANK. Well, you said the deposition. Please, you said it was in the deposition. I'm reading the deposition.

I, to be honest with you, I'm guessing that you misread, honestly, line 9 of page 27, where it says, we needed to get these things sent over as soon as possible. And these things clearly just meant the actual referral. But you did say it was in the deposition. If it's in minority notes, it's a separate issue.

Is it in the deposition? I don't find it in the deposition.

Mr. LEACH. We have a reference in the deposition that——

Mr. FRANK. Where?

Mr. LEACH. May be read the way you would prefer it to be read.

Mr. FRANK. Where is the reference, would you point it out to me?

Mr. LEACH. My staff is getting it now. But let me——

Mr. FRANK. I'm serious. We have a serious——

Mr. LEACH. Will you allow me to respond?

Mr. FRANK. First, I want to ask you if you can show me where it is in the deposition. We have a witness under oath—no, I will not yield. The witness under oath said he didn't say it. You said he said it in the deposition. And I don't impute evil intent. But it does show that it's possible for well-intentioned people to have a disagreement over what was said.

But where in the deposition, which is what you said, said it? If you misspoke, OK, I misspeak every so often.

Mr. LEACH. On page 27 of the deposition.

Mr. FRANK. Line 9 is that?

Mr. LEACH. No, I think it's line 16.

Mr. FRANK. All right.

Because I asked Mr. Dudine, I would ask Mr. Dudine, I think he's got a copy of the deposition, I asked that he get it.

Would you refer to page 27, line 16, begins, I guess, on 15: Legal then reviewed the referrals prepared. The criminal coordinator prepared a response. The referrals then went over on—actually they went over on October 8.

I guess the question is what went over to Justice? Did that include the response from the criminal coordinator or was it just the referrals? And I would ask Mr. Dudine, because that seems to be the central point. At lines 16, 17, and 18, were you there saying what Mr. Leach said you were saying?

Mr. DUDINE. I think the statement is clear, Congressman Frank. The referrals went over on—actually they went over on October 8.

Mr. FRANK. What did you mean by the referrals?

Mr. DUDINE. I meant the referrals, only the referrals.

Mr. FRANK. In other words, so not the document that you said Mr. Leach said you said went over?

Mr. LEACH. Will the gentleman yield?

Mr. FRANK. I will yield to the gentlemen. But let me just say, my time is expired, I would ask unanimous consent for another minute, and I will yield to the gentleman from Iowa.

The CHAIRMAN. Is there objection to the request?

Hearing none——

Mr. LEACH. Also, in your interview with the minority——

Mr. FRANK. No, please, let's stick—I will not yield for you to change the subject. You're taking my time. I'm talking about your interpretation—you said line 16, and I would ask you to stick with your discussion with Mr. Dudine of line 16.

Mr. LEACH. Sure, and if the gentleman would allow me to fulfill a sentence, and then at which point you can make a decision whether it's relevant or not.

Mr. FRANK. Will you abide by it?

Mr. LEACH. Not necessarily.

The gentleman has asked me to proceed.

Mr. FRANK. Take another 30 seconds.

Mr. LEACH. All right. In your discussion with majority and minority staff, and according to the notes we have, you said the criminal coordinator prepared an additional document which accompanied the referrals. Was there an additional document prepared?

Mr. DUDINE. An additional document was prepared.

Mr. LEACH. And what was this document?

Mr. DUDINE. It was a review document, a review, a response from the criminal coordinator relating to each one of the referrals.

Mr. FRANK. Did that go to the Justice Department?

Mr. LEACH. So was this a legal analysis?

Mr. DUDINE. I think you could call it analysis.

Mr. LEACH. And the only legal analysis prepared at that time was done by PLS, that I know of; is that correct?

Mr. DUDINE. It was done by the criminal coordinator, as I understood it.

Mr. LEACH. And that is the Legal Division. And there is another——

Mr. FRANK. Let me take back my time and ask, this is a critical point, did that document go to the Justice Department?

Mr. DUDINE. I think—you have to realize here, that I didn't—I did not actually send the referrals myself. The referrals were sent from Kansas City. So I am relying on information from Kansas City.

Mr. FRANK. And what's your information?

Mr. DUDINE. They have informed me that the referrals, only the referrals, were sent to the U.S. attorney.

Mr. FRANK. And that the document was not sent?

Mr. LEACH. But there's confusion——

Mr. FRANK. Excuse me, I'm taking back my time. In the deposition, you were not saying anything other than the referrals were sent, not the document?

Mr. DUDINE. That's correct.

The CHAIRMAN. The time of the gentleman has expired, once again.

Mr. Ridge.

Mr. FRANK. I just want to say it was relevant. I apologize to the gentleman.

Mr. RIDGE. I would yield to my colleague from Iowa, any additional time he chooses to——

Mr. LEACH. Mr. Dudine is saying two different things here, and I think they're very important. On the one hand, you just acknowledged that another document was sent with the referrals. And you said——

Mr. DUDINE. I did——

Mr. LEACH. You said you understand it was a legal assessment.

Mr. DUDINE. To the best of my knowledge, only the referrals were sent to the U.S. attorney. No legal document. A legal document was——

Mr. LEACH. What was it you started to describe? What were you describing?

Mr. DUDINE. What I'm trying to tell you, Congressman, is that I am relating what the people in Kansas City have told me that they sent to the U.S. attorney. It's normal procedure for the Kansas City region, any regional office, in fact, field office in this case, to make the decision on the referrals and to send the referrals to the U.S. attorney.

They do not send additional documents. They send the referrals. That's the information that was related to me, in this case. Only the referrals were sent to the U.S. attorney.

Mr. LEACH. Why did you make the statement that the criminal coordinator prepared an additional document which accompanied the referrals?

Mr. DUDINE. That—I don't believe I made that statement.

Mr. LEACH. I see. What were you starting to describe just a minute ago? You said an analysis was made, some document.

Mr. DUDINE. The policy that we have from June 17 requires a review by the criminal coordinator in the Legal Division before referrals are sent to the U.S. attorney. In the Kansas City office, apparently, they've decided that that review would be one that creates an additional document. The document is merely a reflection of that review.

The—the investigative criminal coordinator and management would then consider that analysis and that review prior to sending the referrals over. I assume that that's what was done in this case, but only the referrals, to the best of my knowledge, the information that was provided to me from Kansas City, only the referrals were sent to the U.S. attorney.

Mr. LEACH. You are certain the Justice Department has never seen this or any other document to this effect?

Mr. DUDINE. I'm sorry?

Mr. LEACH. Are you certain the Justice Department has never seen that document?

Mr. DUDINE. I am not certain of that, no.

Mr. LEACH. Is it not true that this legal analysis, for which Washington played a part in developing a process of reviewing it——

Mr. DUDINE. I don't have any knowledge that Washington played any part in that.

Mr. LEACH. The E-mail of September 30 indicates that Washington was going to send Kansas City certain material. Are you confident, is everybody here confident no material ever went to Kansas City from Washington?

Mr. DUDINE. Congressman, I can only testify to what I know. And——

Mr. LEACH. I see. And you're——

Mr. DUDINE. I did not send anything, any additional material.

Mr. LEACH. You're confident no other material went with the criminal referral?

Mr. DUDINE. Again, I'm relying on information that was provided to me.

Mr. LEACH. Does anyone on this panel know of any other material that went with the criminal referral?

Ms. Breslaw.

Ms. BRESLAW. No, not anything that went with the criminal referrals.

Mr. LEACH. That were subsequent to the criminal referral?

Ms. BRESLAW. I just want the record to show that when I saw the E-mail attached to your statement yesterday, it was from Julie Yanda to Richard Iorio. I know that Ms. Yanda requested copies of the closed civil professional liability files. For the most part, these were pleadings filed in the accounting malpractice case. She made a request to me for the closed civil files, and those were sent to her, from me to her.

Mr. LEACH. Do any of you know if any other material was ever sent to the Justice Department, at any time?

Mr. HINDES. Congressman Leach, we have had a number of subpoenas from the independent counsel requesting a vast array of documents related to Madison. I'm sure that these are probably documents that all have been responsive to those subpoenas. But this is all subsequent to the events that you are talking about.

Mr. LEACH. Fair enough.

I yield back to the gentleman.

Mr. RIDGE. I just wanted to conclude along that line of questioning. It is my understanding that, Mr. Dudine, that and this occasion—over here, it's all right. On this occasion when this accompanying document was forwarded with regard to the criminal referral, this was a—this was not standard practice?

Mr. DUDINE. Congressman, I just want to reiterate, to the best of my knowledge, that document was not forwarded to the U.S. attorney.

Mr. RIDGE. All right. Was it a standard practice——

The CHAIRMAN. The time of the gentleman has expired.

Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman.

I'd yield to Mr. Frank a minute or as much time as he might need to respond.

Mr. FRANK. I thank the gentleman.

I just want to say, Mr. Dudine has made this very clear. Frankly, we have been looking for specific allegations of interference.

One was a dispute between Ms. Breslaw and Ms. Lewis, which Ms. Lewis' absence keeps us from pursuing. And the burden is on Ms. Lewis, it seems to me, having absented herself, to make her case. One was the notion that Mr. Altman wouldn't recuse himself. But Ms. Kulka had just pointed out that the biggest thing that happened during the period when Mr. Altman was not recused is that the law firm which employs Jay Stephens was hired and assigned to the RTC. And then we had Mr. Leach's point which he made to Ms. Hanson yesterday and again today, the suggestion that there's something extraordinary happened because this sort of rebuttal document was forwarded. And it, apparently, results from an honest misreading by somebody on the minority side of Mr. Dudine's deposition.

Prepositions can fool people. There are a lot of they's and thee's and them's. And the fact is that Mr. Dudine has consistently now said, no, he didn't say that. I have read the deposition. It seems to me clear he is not saying that, once he explains what he is saying.

So once again one of the specific allegations that there was any interference turns out to be based on honest error. And I believe it was an honest error. But I would point out, again, the fact that we could get this honest error, which Mr. Dudine has now made clear—and I guess he's checked, and it's not just that he didn't say it, he does not believe it happened, the document wasn't referred.

Now, I just would point out again, let me put it this way, if we had one of the administration witnesses who had misstated a fact to the extent that the minority has just misstated this fact, people would have been yelling up and down. But people do make honest mistakes when they have these long or delayed or even short delays and are thinking about other things. But in order to be clear, one of the specific points we were told was that there was this extraordinary referral of this rebuttal document. It was based, apparently, on a misreading of Mr. Dudine's view.

Ms. Hanson said she didn't remember it. She quoted someone else who didn't remember it. And the reason people didn't remember it is, it didn't happen.

I thank the gentleman from Massachusetts.

Mr. KENNEDY. Thank you, Mr. Frank, for clarifying what I think was a very confusing situation prior to your analysis.

I just want to come back, Mr. Dudine, to the essence of what is—what you're being accused of interfering with, which is it seems to me the fact that you sent these referrals to Washington versus sending the referrals to the Justice Department, I guess in Little Rock. Is that correct?

Mr. DUDINE. Can I explain that?

Mr. KENNEDY. Please.

Mr. DUDINE. Maybe it would be helpful. Again, we were facing a situation where notification about the referrals had already been made to Mr. Roelle from the vice president in Kansas City. I then learned, or sometime about that time learned of a difference of opinion——

Mr. KENNEDY. Just so I understand, Mr. Roelle hears—why would Mr. Roelle—you're in the Washington office, right?

Mr. ROELLE. That's correct.

Mr. KENNEDY. So if the normal procedure is for you to let Little Rock know, then why does Mr. Roelle ever get involved?

Mr. DUDINE. The notification was made prior to the referrals being sent to the Justice Department.

Mr. KENNEDY. Is that the normal procedure?

Mr. DUDINE. Our normal procedure would be to do it simultaneously.

Mr. KENNEDY. OK.

Mr. DUDINE. That's the legal review—that's where the difference of opinion about the legal review comes in, and my intent was to facilitate that review so that we would apply our policies correctly.

Mr. KENNEDY. What was that dispute? Just briefly, because we're going to run out of time.

Mr. DUDINE. As I understand, the investigators in Kansas City either were reluctant to let the legal people review in what I would believe contravention of our policy. My intent then was to make sure that the policy—to see that our policy was——

Mr. KENNEDY. Would you view that as in any way politically motivated?

Mr. DUDINE. No, sir, to the best of my knowledge, no, sir.

Mr. KENNEDY. So the dispute had nothing to with the concern of White House involvement in Watergate—I mean, in Whitewater, but rather had to do with some legal dispute that would be the norm in these kinds of cases?

Mr. DUDINE. Yes, sir, we have our share of these kinds of disputes.

Mr. KENNEDY. OK. So what—so then there's a dispute within the legal department of the Kansas City Office of the RTC as to how to proceed on this case. Is that correct?

Mr. DUDINE. Right.

Mr. KENNEDY. And so then what happens?

Mr. DUDINE. So then I asked to have the referrals sent to Washington so I could review them. I also asked our criminal specialists from the Professional Liability Section in Washington to review them with me. We then——

Mr. KENNEDY. Does Ms. Kulka or Ms. Breslaw have any comment on whether or not this was in fact out of the ordinary? Was this an ordinary procedure?

Ms. BRESLAW. I don't work on criminal referrals, sir, so——

Mr. KENNEDY. Yes, OK.

Ms. KULKA. I was not at the agency at the time and I haven't participated in the process.

Mr. KENNEDY. OK.

Mr. DUDINE. It's a rare occurrence. So I would say it was out of the ordinary, but it was in an attempt to get the ball moving, to make sure that the referrals were handled quickly and expeditiously, but also to make sure that our policies, our national policies, were complied with in the field. That was my intent. There was never any intent to get in the middle of that decision.

The decision about the referrals and the content of the referrals was to remain in Kansas City. However, our policy demanded a review by the legal criminal coordinator. That's what I intended to see that would happen and that's what did happen and the referrals were sent shortly thereafter.

Mr. KENNEDY. Following normal democratic procedures.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KENNEDY. Thank you very much.

The CHAIRMAN. Mr. Roth. Oh, pardon me, Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman.

Mrs. Kulka, I have some questions for you. I heard your opening statement as well as the other opening statements.

Ms. Kulka, when did you become aware that Mr. Altman was asked at the February 2, 1994 meeting, whether he could give a similar briefing to Mr. Kendall?

Ms. KULKA. I've only read newspaper accounts—oh, I'm sorry?

Mr. BEREUTER. When did you become aware of it?

Ms. KULKA. From, I think, newspaper accounts of it, sir.

Mr. BEREUTER. Nearly simultaneous with that date or near that date?

Ms. KULKA. Oh, no, it was months later.

Mr. BEREUTER. Months later.

Isn't it unusual for the head of the RTC, Mr. Altman, an independent agency, to brief a President's personal attorney?

Ms. KULKA. I don't know what's usual for the RTC, sir, since I've been there such a short period of time.

Mr. BEREUTER. Well, can you speak as if this was a regulatory entity?

Ms. KULKA. The RTC is not a regulatory entity from that point of view, sir. We don't bring enforcement actions and we don't have oversight over any financial institutions. What we do is pursue civil claims.

Mr. BEREUTER. Did the White House staff request that Mr. Altman brief the President's personal attorney?

Ms. KULKA. I have no direct knowledge of that, sir.

Mr. BEREUTER. Does that indicate—I am asking you for a judgment. Did that indicate to you an inappropriate intervention on the part of the RTC on behalf of the White House favorable to the President?

Ms. KULKA. It's very hard for me to grasp what the facts would be surrounding that, sir, and I don't care to speculate.

Mr. BEREUTER. Were you asked by Jean Hanson to do that?

Ms. KULKA. I was asked—Ms. Hanson referred a request from Mr. Altman for me to contact Mr. Kendall and explain to him the time period for running of the statute of limitations and the availability of tolling agreements.

Mr. BEREUTER. Mr. Chairman, members of the committee, having been through several days of hearings now, I think there's a pattern that's appearing, and I want to make it clear I'm not talking to this panel of witnesses. I think we just have had dozens and dozens of examples where people don't recall, they don't recollect, they have no memory of such. And some memory loss is understandable. But here we have a pattern of convenient loss of memory on the previous panels that have been before us, the previous panels that have been before us. I think in many cases we've had narrow qualified answers given to us. We've had direct contradictions given to us where it's clear that one or the other witness is lying. And I think when people have a memory of a situation and they tell Congress they do not, that is a lie. And, clearly, we have had people before us in the previous two panels that are lying to the Congress of the United States.

We've also been told that there's no unethical kind of conduct in the relationships between Treasury and the White House and the regulatory agencies. Well, I believe those conduct—those contacts and that conduct in many cases has been unethical. It's been unethical, in my view, it's been unethical in the view of the American people. It's a technicality only that it wasn't unethical.

Mr. NEAL. Will the gentleman yield? Will the gentleman yield to me?

Mr. BEREUTER. I will return my time.

Mr. NEAL. I just think this is so unfair.

Mr. LEACH. Regular order, Mr. Chairman.

Mr. RIDGE. Regular order, Mr. Chairman.

The CHAIRMAN. My gosh, I wish you'd have let me rule. I was about to.

I inform the gentleman that Mr. Bereuter did not yield, and his statement stands on its own.

I believe Ms. Waters.

Ms. WATERS. Thank you very much, Mr. Chairman.

And I'd like to thank all of the witnesses for appearing here, and hope that we're able to at least understand something about what is going on.

First, for Mr. Dudine and Mr. Roelle, you're career employees who started when RTC was created?

Mr. ROELLE. No, ma'am. I've been a career government employee for 25 years with the Federal Deposit Insurance Corporation. I—in 1989, on February 2, I was assigned head of the S&L project group.

Ms. WATERS. OK. That's—I get the picture.

Mr. Dudine.

Mr. DUDINE. Likewise, I am a career FDIC employee. In fact, I'll have 25 years sometime next week.

Ms. WATERS. All right. I want to establish for the record, you're not political appointees and you came long before this administration even. It appears to me, something has been driving this so-called investigation of Whitewater-Madison Guaranty. A lot of money and resources have been dedicated to this over a period of time.

As a matter of fact, the information that I have shows that perhaps you have spent more money and more time on this—on these investigations than you have on practically anything else. Is that correct, Mr. Dudine?

Mr. DUDINE. Congresswoman, I think that it's fair to say that a good amount of resources have been expended on this case. But that is—that is not to say that we haven't expended resources——

Ms. WATERS. All right. But for the record, you have spent a great deal of resources, something has been driving these investigations.

Can you tell me why you put the review policy in place?

I know what you refer to when you talk about you wanted to make sure that all of the "t"s were crossed and the "i"s were dotted and there were some disagreements. But did you also put this policy into place because you discovered that there was somebody or somebodys who may be acting improperly, who may be leaking information, who may be reaching to try and piece together information and to provide something in the way of a sensational case?

I want to hear that part of what was going on when this policy was put together.

Mr. DUDINE. No, ma'am. The policy was decided upon as just a matter of improving our process overall to ensure that we had proper coordination and consultation.

Ms. WATERS. When did you discover there were leaks going out from someone or more investigators?

Mr. DUDINE. Let me just say that the RTC has made some 1,200 criminal referrals.

Ms. WATERS. When did you discover there were leaks going out on this particular case?

Mr. DUDINE. I discovered the existence of press inquiries, that's not to say leaks, but that people in the press were interested and began calling investigators sometime in late September.

Ms. WATERS. Did you ever discover there were leaks going out from any of the investigators?

Mr. DUDINE. I have no evidence that any information was leaked by investigators.

Ms. WATERS. Do you believe or have knowledge of any leaks from Ms. Lewis to Mr. Leach?

Mr. DUDINE. I have knowledge of information that Ms. Lewis provided Mr. Leach, of course.

Ms. WATERS. When did you discover this?

Mr. DUDINE. I discovered it on—I don't know the date, but the date that——

Ms. WATERS. Do you know whether or not Ms. Lewis provided information to anybody else?

Mr. DUDINE. I have no evidence or knowledge that Ms. Lewis provided information to anyone else.

Ms. WATERS. What did you do when you discovered that Ms. Lewis had taped the conversation with Ms. Breslaw?

Mr. DUDINE. My recollection is not strong there. I suppose it may have been sometime after the disclosures.

Ms. WATERS. What did you say to Ms. Lewis when you discovered she had taped this conversation?

Mr. DUDINE. I have had no conversation with Ms. Lewis about that.

Ms. WATERS. Did you discover any other action besides the leak and the taping of the conversation?

The CHAIRMAN. The time of the gentlelady has expired.

Ms. WATERS. Can the witness answer the last question?

The CHAIRMAN. Well, since it was asked of the witness if he has——

Mr. DUDINE. I don't recall exactly what your question was.

Ms. WATERS. Did you discover any other leaks or taping or information being shared?

Mr. DUDINE. I'm not aware of any leaks or any evidence of leaks from Ms. Lewis. And I'm not aware of any other tapings.

The CHAIRMAN. Mr. Roth.

Mr. ROTH. Thank you, Mr. Chairman.

Ms. Breslaw, I have had a chance to take a look at your resume. You seem to be a very accomplished person. I know that you are doing a good job over at RTC, at least I would think so.

The RTC resolved some 718 savings and loan associations since its inception and independent counsel, Mr. Fiske, said that Madison Guaranty in Little Rock alone generated some 1 million documents in its collapse and resolution. In your opinion, for a Savings and Loan of this size, is this a usual or an unusual number of documents?

Ms. BRESLAW. You know, sir, I am really not comfortable speculating about that. As my statement reflects, I work on a fairly narrow area of civil claims out of these Savings and Loans. There are many, many documents that a financial institution would have in the routine course of its business that I would never have any occasion to see.

Mr. ROTH. But from your experience, would you say this was the average? Below average? Above average?

Ms. BRESLAW. I really can't speculate on the total number of documents that any institution would have. If we know that it is a relatively small institution, one might infer that this is a relatively small number of documents, but I really don't know.

Mr. ROTH. What is it about Madison that focused and drew so much internal RTC attention? It seems like whenever you read something, it always comes back to this focus on Madison.

Ms. BRESLAW. Well, sir, again, I do want the record to reflect that I did not work on the criminal referrals and I do not have any personal knowledge of any disagreement regarding those.

Mr. ROTH. But you worked on the Madison case resolution?

Ms. BRESLAW. Well, sir, I worked on the civil professional liability claims. The largest project that I worked on in connection with Madison, quite frankly, was the accounting malpractice case which was settled in the spring of 1991. With all due respect, I am not sure that it is fair to say I worked on the resolution of Madison.

For example, I played no role in the selling of Madison assets, in groups or to other institutions. There is an awful lot that has gone on with Madison that I am just not aware of.

Mr. ROTH. You are the RTC, as I understand, the Washington-based expert on RTC, though; is that correct?

Ms. BRESLAW. I am sorry. What was the last question?

Mr. ROTH. You are one of the RTC Washington-based experts on the Madison Guaranty Savings and Loan, though; isn't that correct?

Ms. BRESLAW. I don't know if I would describe myself as an expert, but I worked—until March 25, continued to work on civil professional liability claims, and what I mean by that are potential claims against directors, officers, attorneys, accountants, that sort of thing. Other than that, I had no role in loan collection activities, and array of other things that the RTC gets involved with when it takes over one of these failed institutions.

Mr. ROTH. You know the thing that has always intrigued me about their case more than anything else I guess is that Madison was allowed to remain operational for so long after the Federal regulators determined that it was insolvent.

Ms. BRESLAW. Well, sir——

Mr. ROTH. That has always intrigued me. Why was that?

The CHAIRMAN. That is not within the scope of this hearing.

Mr. ROTH. The witness is prepared to answer.

The CHAIRMAN. The witness has answered that she is handling the civil aspects of the RTC and the reason she is here is because allegations have been raised that somehow or other she may have done nothing to impede the processes involving criminal referrals.

Mr. ROTH. Mr. Chairman, I understand that, but the reason why——

The CHAIRMAN. I wish the gentleman would respect that.

Mr. ROTH. The reason I was pursuing that line of questioning is that Ms. Breslaw overruled others and hired the Rose law firm. What I was wondering, what was involved in that procedure basically?

Ms. BRESLAW. I think that that is beyond the scope of this hearing.

Mr. ROTH. But you can answer, if you want to.

Ms. BRESLAW. One point I would make is I think press reports about that have been a bit misleading.

Mr. ROTH. It is wrong, in other words; isn't that correct?

The CHAIRMAN. The witness doesn't have to answer that. And to begin with, the question of the hiring of the law firm, at least Jay Stephens' law firm, was answered by Ms. Kulka. That may be the more appropriate witness.

Mr. ROTH. I was wondering, if it is true, it would be interesting to know why. If it is not true, I was going to give the witness a chance to say it wasn't true.

The CHAIRMAN. Well, she did. She did answer.

Mr. ROTH. It was inaudible. I didn't hear it.

Ms. BRESLAW. With all due respect, one small comment I would make, and I think you are referring to the decision to hire the Rose law firm to work the accounting malpractice case, which was several years ago. I was the only person that had decisionmaking authority on that project. I know there have been various persons who have expressed opinions to the press about this, but I guess all I would say is that I have been surprised to read those things.

There are memos that have gone between people other than me and if you see the memos you will see that I was not copied on them. They were not addressed to me. And yet, people have used those memos to draw inferences that somehow I was overruling somebody, but there is really very little I can do if people communicate with themselves and never raise their concerns to me.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Orton.

Mr. ORTON. Thank you, Mr. Chairman. And welcome to the panel.

By the way, I am over here behind the recorder, if any of you can't see me.

Back in March, I believe on the 24th of 1994, Mr. Leach took the floor of the House and made some very serious allegations about obstruction of justice by the White House, about alleged wrongdoing within the RTC and about an attempt to delay or not send criminal referrals on Madison. That allegation was repeated again just a few days ago in a hearing here in this committee by Mr. Leach saying, again, that even though it didn't succeed, it wasn't true that there were not attempts to do so.

It seems to me that whole allegation says that the White House was briefed; the White House then took action through the RTC in Washington to attempt to stop the Kansas City office from doing something they were doing in sending referrals.

There are three specific allegations and charges that are cited. One, an unprecedented 3-week delay in sending these referrals requested by the Washington office in order that the Washington office could prepare an unprecedented legal review of the criminal referrals, a rebuttal saying why there was no criminal activity, in essence, and third, that this unprecedented legal review was then sent to the Justice Department in opposing the criminal referrals

that were prepared by the Kansas City office. It seems to me that that is the essence of the three charges.

With regard to each of those three, the unprecedented 3-week delay, Mr. Dudine, is it true that it was requested, a 3-week delay, in order to prepare the legal analysis or to look at it in the legal department to review? I believe you called it the review by the legal criminal coordinator.

Mr. DUDINE. Congressman, the fact is that the delay, or the time it took to do the legal review was more like 10 days, I believe.

Mr. ORTON. That was my next question.

Mr. DUDINE. It was, indeed, my intent, when I asked for the referrals, to come to Washington and the discussion I then had later with the people in Kansas City was to ensure that we had a minimum amount of delay, but also to ensure that our policy was complied with and that required a legal review in Kansas City not in Washington.

Mr. ORTON. OK. You requested 3 weeks so that Kansas City could——

Mr. DUDINE. I don't know where——

Mr. ORTON. You requested a sufficient amount of time, not 3 weeks?

Mr. DUDINE. I don't know where the 3 weeks came from.

Mr. ORTON. That was an allegation of minority, but it only took 10 days to complete the review?

Mr. DUDINE. I believe something on that order.

Mr. LEACH. If the gentleman would yield.

Mr. ORTON. I have three very specific questions I would like to ask, then if I have time I will come back.

The legal review of criminal referrals, it is claimed, is unprecedented. Is it unprecedented or in fact is it the policy of the RTC that the legal department review or analyze criminal referrals before they are sent?

Mr. DUDINE. It is the policy of the RTC that criminal referrals receive a review by the legal criminal coordinator in each office.

Mr. ORTON. Is that the review that was conducted?

Mr. DUDINE. Yes.

Mr. ORTON. OK. And third, the allegation that this legal analysis was a rebuttal to those criminal referrals which were sent along with the referrals to the Justice Department; is that true? Were they—was this a rebuttal that was sent along with the referrals?

Mr. DUDINE. I would not call it a rebuttal.

Mr. ORTON. Was it sent with the referrals?

Mr. DUDINE. To the best of my knowledge, it was not sent with the referrals.

Mr. ORTON. So, therefore, the allegations, the three very specific fact allegations cited on the floor of the House on March 24 as specific allegations are simply the policy analysis by the criminal coordinator of criminal referrals before they are sent. It is the standard policy of RTC to do so. It was not requested by the White House. It was not even sent to the Justice Department; is that correct?

Mr. DUDINE. To the best of my knowledge, that is correct.

Mr. ORTON. Thank you. My time has expired.

The CHAIRMAN. Mr. McCandless.

Mr. MCCANDLESS. I am sorry, Mr. Chairman. Did you allot me time? I was reading intently here the documents that I have been given.

I would yield, because of the importance of a couple of issues, to Mr. Ridge part of my time.

Mr. RIDGE. I thank the gentleman for yielding.

Mr. Hindes, I would like to just ask you a very few brief questions concerning the meeting that you had on January 12 of this year attended by I believe Mr. Barker, Jean Hanson, and John Bowman of the Treasury Department. Let's just keep our focus on that. Do you recall where the meeting was conducted?

Mr. HINDES. The meeting was conducted in Ms. Hanson's office.

Mr. RIDGE. Do you recall at whose initiative it was undertaken? Who called the meeting?

Mr. HINDES. I was just informed earlier on that day there was a meeting involving those participants. I don't know who initiated it.

Mr. RIDGE. Were you given prior knowledge as to the purpose of that meeting?

Mr. HINDES. Just the general note that it involved Madison issues.

Mr. RIDGE. All right. Had you ever had the occasion in your professional capacity at the RTC to visit the Treasury to talk about any other criminal referrals?

Mr. HINDES. About criminal referrals; no, sir.

Mr. RIDGE. Did you have reason to believe, before you went over to that meeting, that the discussion would involve the criminal referrals around Madison?

Mr. HINDES. I had no knowledge about what the precise details would be.

Mr. RIDGE. Did you have knowledge yourself that the criminal referral involving Madison Guaranty involved references to the White House before you went to that January 12 meeting?

Mr. HINDES. I had a general understanding of, in very vague terms, of what was in the referrals. I had never seen the referrals, nor had I read them, nor had I been briefed on them.

Mr. RIDGE. At the time of the meeting, were you asked to give either Ms. Hanson or Mr. Altman a briefing on those referrals?

Mr. HINDES. During the meeting, I was asked if I could brief Mr. Altman on the criminal referrals and to which I responded, well, I have never seen the criminal referrals, I wouldn't be in a position right now to brief anyone on them.

Mr. RIDGE. Who made that request of you?

Mr. HINDES. Ms. Hanson.

Mr. RIDGE. Are you absolutely certain that she was present at that meeting?

Mr. HINDES. Absolutely certain.

Mr. RIDGE. Any doubt in your mind that she specifically requested the briefing with Mr. Altman?

Mr. HINDES. No.

Mr. RIDGE. Thank you. I yield the gentleman back his time.

Mr. MCCANDLESS. Ms. Kulka, I have a couple of quick questions for you in the time I have left.

Did you ever say to Mrs. Breslaw that you or Jack Ryan wanted to be able to say that Whitewater caused no losses to Madison?

Ms. KULKA. Absolutely not.

Mr. MCCANDLESS. The second question that I wanted to pose is what if Whitewater had caused no losses to Madison?

Ms. KULKA. I am sorry. I couldn't hear you, sir.

Mr. MCCANDLESS. What if Whitewater had caused no losses to Madison?

Ms. KULKA. Are you asking me to speculate about what——

Mr. MCCANDLESS. I am asking, Mr. Chairman, for a legal opinion on what if Whitewater had caused no loss at Madison.

The CHAIRMAN. Well, that is not the purpose within the scope of this hearing and the gentleman knows that. So, will the gentleman please stick with the scope?

Mr. MCCANDLESS. Well, then I will answer my own question because it is pretty evident to me that if no claims existed, then there would be no claims existing against the individuals connected with Whitewater.

No losses, no claims, right? That is my point. It is a simple legal answer, I would think, that is why I asked the question. What and how did you become aware of Ms. Breslaw's statement to Ms. Lewis?

Ms. KULKA. When I heard that Mr. Leach had made reference to a conversation on the floor of the House on the 24th and I was handed a copy of his statement and the materials that he released to the public.

Mr. MCCANDLESS. Did you meet Ms. Breslaw after her trip to Kansas City?

Ms. KULKA. No. I did not meet with her after her trip to Kansas City except that I met with her after her press statements and after Mr. Leach's statements on the floor of the House.

Mr. MCCANDLESS. Wasn't that after Kansas City?

Ms. KULKA. It was about 1 month or 6 weeks after and I didn't want to be inaccurate, but I didn't know what you were referring to.

Mr. MCCANDLESS. Like March 24.

Ms. KULKA. I met with her, I believe, on the 25th.

Mr. MCCANDLESS. I see my time is up.

Thank you.

The CHAIRMAN. Mr. Kanjorski.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

Mr. Chairman, I would like to direct my questions to Ms. Lewis.

Ms. Lewis, is she down there under the table somewhere? Could you reach down and see if she is there?

The CHAIRMAN. Would the gentleman yield here?

Mr. KANJORSKI. Yes, certainly, Mr. Chairman.

The CHAIRMAN. We have reported on that and unless the gentleman has some extra——

Mr. KANJORSKI. I will name some of the things I want to ask Ms. Lewis in my statement, that if I could have recaptured some of the time in my yielding I am giving to the chairman.

The CHAIRMAN. Well, I think I must admonish my colleague that that is improper.

Mr. KANJORSKI. OK. Mr. Chairman, I respect your leadership here and, of course, I try to point out the fact that really the most important person who should be in this room today is Ms. Lewis, the missing person.

If you will think about the other day, we lined up 10 of the most important people in the White House serving the President, and they waived executive privilege, the President waived executive privilege, they waived all their protections. They came up here and gruelingly accepted examination for sometimes 10, 15 hours at a time. The one person that this committee does have jurisdiction oversight over is Ms. Lewis, and she has decided not to come and it is interesting, you know, I think in any of these questions you always go as to—somebody said the other day "where is the meat?" The meat is who is going to gain something from these leaks and these tragedies that are attempting to weaken the Presidency of the United States and I think you don't have to look too far to ask where Ms. Lewis is. Because she seems to be the one that some of our colleagues on the other side have relied upon for an awful lot of information and then when you look at her record and background and you look at what she has been doing, let me run through a few things here that the——

The CHAIRMAN. The Chair must interrupt the gentleman to point out that that, too—well, there are two reasons. One, the witness is absent. She is not in a position to defend herself. It was within her right——

Mr. KANJORSKI. May I ask the Chair?

The CHAIRMAN. So her attorney advised us she couldn't be here. The gentleman is, therefore, actually not within the scope of the hearing and I would suggest that the gentleman limit himself to questions of the witnesses that have shown up, and if later, as the Chair has indicated, it is the desire of the gentleman to seek the majority of 26, to seek through subpoena to obtain the presence of Ms. Lewis. We will defer for that at that time, but at this moment, and I will subtract this time for examination from his time, the gentleman, I think, would best dedicate himself to addressing questions to the witnesses that have shown up.

Mr. KANJORSKI. Ms. Kulka or Mr. Ryan, either one, what are the rules in the RTC about someone who operates in an official capacity and then negotiates a contract to sell the information gained confidentially to earn an income and a profit, is that acceptable? Or are there no rules or regulations against that?

As I understand it, there is an attorney now attempting to sell a contract on the missing witness here today so that she can gain personal wealth from her investigation and the information she gained. Do we have any rules or laws that she is violating?

Mr. LINDER. Point of order, Mr. Chairman. Isn't that the same question you just ruled out of order beyond the scope of this inquiry?

The CHAIRMAN. The Chair answers in the affirmative and I was about to point that out, to Mr. Kanjorski.

The gentleman is asking a hypothetical question of the witnesses based on yet-to-be-adduced evidence before this committee.

I will say again, if it is the opinion of at least 26 members of this committee that it is absolutely essential for this committee to re-

ceive the testimony of Ms. Lewis, our recourse is to vote through 26 at least a subpoena but up to then, the gentleman must abide by the rules of propriety in asking these witnesses a hypothetical question based on yet to be adduced evidence.

Mr. LEACH. Point of parliamentary inquiry.

The CHAIRMAN. Yes, sir.

Mr. LEACH. If the gentleman raises a question of that order, is he also to assert that it has occurred?

The CHAIRMAN. Well, again——

Mr. KANJORSKI. Will he assert that what occurred?

Mr. LEACH. The gentleman is implying that perhaps someone sold information. Is the gentleman asserting that is the case?

Mr. KANJORSKI. I am asserting that there is an attempt being made to sell the rights to a book on investigative material, as I understand it, of an employee of the RTC using the material gained in the course of that investigation for personal gain.

The CHAIRMAN. Again, the gentleman——

Mr. LEACH. Would the gentleman say who is attempting what?

The CHAIRMAN. Let's adhere to the regular order.

Mr. Kanjorski, once again I implore you to ask questions to the witnesses that have appeared and have done so in obeyance to our request.

Mr. KANJORSKI. If I may continue my examination, Mr. Chairman.

Mr. Ryan, maybe I should ask you this question. I am surprised when I read the background of a certain Kansas City investigator, that they came to the RTC after they served on bankrupted Savings and Loans, only serving in capacity as secretaries, had no background in investigative work and then go to work for the RTC and within 3 months——

The CHAIRMAN. Mr. Kanjorski, the Chair again must rule you out of order.

Mr. KANJORSKI. There wasn't any named referral, Mr. Chairman. OK. Mr. Chairman, I understand. We will get to that. Could I make a formal request, Mr. Chairman, that we at the earliest possible moment entertain the vote on the issuing a subpoena so we can have this witness here. I think we are entitled, if we had everybody from the White House here and everybody that lives in Washington and everybody that I ever met or seen or read about in the newspaper here but one person, I think that this committee should exercise its oversight and bring that key person here.

The CHAIRMAN. I can assure the gentleman——

Mr. LINDER. Mr. Chairman, would the chairman also assure us that the minority could use subpoena power for its rule 11 date?

The CHAIRMAN. For what?

Mr. LINDER. Rule 11 to bring our own witnesses, could we use subpoena power?

The CHAIRMAN. The gentleman can be assured that the Chair, as it has up to now, as long as I have been chairman will adhere to the rules and that would answer that question.

So let's proceed. Regular order.

Mr. Kanjorski, do you have any questions for these witnesses you wish to ask now?

Mr. KANJORSKI. Mr. Chairman, I am going to relinquish my time so we can get back to the regular order.

The CHAIRMAN. It is too late now.

Mr. Thomas over there.

Mr. THOMAS. Thank you, Mr. Chairman. You almost got away over there and asked some questions on that side that would have been interesting.

Mr. Katsanos, is that correct?

Mr. KATSANOS. That is correct.

Mr. THOMAS. We don't want you to get away without a little fun here, also.

Mr. KATSANOS. Thank you so much.

Mr. THOMAS. You are involved in the media at RTC; is that right?

Mr. KATSANOS. That is correct, sir.

Mr. THOMAS. One of the questions that has been going back and forth here is that Mr. Roelle told this committee that he briefed Roger Altman in March 1993 on the September referral, neither Mr. Altman nor Mr. Newman remember this. Did you tell us that Mr. Roelle——

Mr. BARRETT. Mr. Chairman, point of order. I don't believe that this witness was sworn in prior to his testimony.

Mr. KATSANOS. I am sorry. I was sworn in, sir.

The CHAIRMAN. Sure, he was sworn in.

Thank you.

Mr. THOMAS. I am sorry. Could you tell us, did Mr. Roelle ever tell you that he had told Mr. Altman about that in March 1993?

Mr. KATSANOS. I believe Mr. Roelle at one point had mentioned to me that he had indicated to Mr. Altman shortly upon his assuming control of the RTC that there had been a referral.

Mr. THOMAS. OK. Did he ever express concern to you, Mr. Roelle, that if he showed the criminal referrals to Mr. Altman that he might try to second-guess the decision or change the referrals in some respect?

Mr. KATSANOS. Not specifically, no.

Mr. THOMAS. What does it mean, "not specifically"?

Mr. KATSANOS. Mr. Roelle, I recall, had at one point, on a different set of referrals, had indicated that he told Mr. Altman that there were some referrals but not until the decisions on them had been made.

Mr. THOMAS. So he did express some concern that timeliness might cause some decisions to be made differently?

Mr. KATSANOS. I would have to say, sir, there was a sentiment within the organization that Mr. Altman may inject himself into some decisionmaking. And while that wouldn't be entirely inappropriate, because he was the CEO, this was a matter that had a process that we typically followed and the CEO is generally consulted but not in the actual decision loop, as I understand it.

Mr. THOMAS. I suppose, and it is not normal for the CEO to be friends of those that are mentioned even as possible witnesses in the case; isn't that true?

Mr. KATSANOS. I think that would have to be a case-by-case determination, sir.

Mr. THOMAS. Do you know of any cases that are any different than that?

Mr. KATSANOS. I am not familiar with our case law.

Mr. THOMAS. OK. I understand. I understand, I think it is fair to say you are a little bit of a peripheral player probably in this; is that fair?

Mr. KATSANOS. That is fair, sir.

Mr. THOMAS. During the time Mr. Altman ran the RTC because of his political appointment, as it was, would you say it was more dominated by political appointees than before?

Mr. KATSANOS. Well, the RTC only has two official political appointment slots that I am aware of, other than the inspector general, who is also a political appointee. We certainly had, in my belief, much more involvement of political appointees or affiliates, secondary affiliates from the Treasury Department than we had ever had before.

Mr. THOMAS. Did Mr. Steiner personally help draft press releases for RTC?

Mr. KATSANOS. I recall one press release in particular that Mr. Steiner was heavily involved in. Actually, sat down at my computer and assisted in the writing of it. There were other press releases that were sent to Treasury for final approval and would be subjected to some modification. Who did those changes, I am not sure.

Mr. THOMAS. Thank you. Let me just take the rest of my time, which isn't much, just to say that the question has been raised here what is driving this investigation. Let me tell you what I think is driving it. It has to do with $60 million of loss in a savings and loan, $60 million. It has to do with openness in government. I think that is important. I think that is a reason to drive this kind of an investigation. It has to do with stonewalling from the White House.

I think that has some reason to have an investigation like this and it has to do with the citizen's right to know, so it is astounding to me that we still hear what is going on here. I think I know what is going on here. This is essential to democracy. This is essential to this government, that we have openness. That is what it is about. I think it is fairly clear.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. LaRocco.

Mr. LAROCCO. I would like to follow up on what my colleague from Wyoming said. I think we know what is going on here. There are some politics going on here as well. We are trying to get to the bottom of it, but Mr. Chairman, I don't generally question your decisions and how you rule. But you ruled Mr. Kanjorski out of order for basing some statements on allegations, but yet our colleague from Nebraska, said that there were prior witnesses before this committee who lied. Under oath they lied and then didn't name any names, didn't make any accusations, didn't give us any names and just seemed to float out there.

For the American people, for the members of this committee, no names were mentioned, but a very serious allegation was made about people who have appeared at this committee and have given sworn testimony. An allegation was made by the gentleman from

Nebraska that the witnesses lied and then we just went on to other business.

Now, I don't know when we are going to find out who is going to name names here. Maybe it will be done in a press release, Mr. Chairman.

The CHAIRMAN. Would the gentleman yield to me?

Mr. LAROCCO. Of course.

The CHAIRMAN. Mr. Kanjorski was raising questions as to some facts and background of an absent witness who is not here to testify. But Mr. Bereuter was voicing opinions about what he thought he concluded from hearing witnesses that we have already heard under oath, and I felt that the best——

Mr. LAROCCO. Who are not here.

The CHAIRMAN. And I felt that the best judge of that will be the record itself, so the gentleman will proceed and I think the timekeeper ought to give him half-a-minute for this interruption.

Mr. LAROCCO. Thank you, Mr. Chairman. Reclaiming my time.

I just make the observation that the allegations were made against people who were not here in this room, and who don't have any time to respond to those allegations, whoever they are, whoever they may be. Maybe we will find out.

Mr. Roelle, yes or no. Did the RTC brief during 1992, Secretary Brady about the Madison Guaranty or Whitewater issue?

Mr. ROELLE. Not to my knowledge.

Mr. LAROCCO. Did you not say to Senator D'Amato the other day in the other body that there was a briefing by the RTC about——

Mr. ROELLE. No, sir, I did not.

Mr. LAROCCO. About the potential explosive allegations?

Mr. ROELLE. No, sir, I did not say that. I would be glad to tell you what I did say.

Mr. LAROCCO. Please proceed.

Mr. ROELLE. I had also, in keeping with our policy, had told Mr. Albert Casey about the earlier criminal referral. And he told me that I believed that it would be necessary because it was so important to report it to the Oversight Board. I advised him I didn't think that was necessary and probably ought not to be done, and he said he would take it under consideration and he told me—now this is hearsay because I don't know this all for a fact, I can only tell you what he told me and he said he was going to do it. I said that is fine. Then I don't——

Mr. LAROCCO. There was no briefing by RTC officials and Bush administration Treasury officials in 1992 during the heat of the Presidential campaign?

Mr. ROELLE. I am telling you I didn't and I know of no one that did.

Mr. LAROCCO. Ms. Breslaw, when the Rose firm was hired, you were asked by the gentleman from Wisconsin about the timeframe. Was that during the Bush administration?

Ms. BRESLAW. Yes, sir. That would have been in February or March 1989.

Mr. LAROCCO. I am sorry. I missed the answer?

Ms. BRESLAW. The Rose firm was hired to represent us in an accounting malpractice case in either late February or early March 1989.

Mr. LaRocco. Nineteen eighty-nine.

Ms. Breslaw. That is correct.

Mr. LaRocco. And that was before President Clinton was elected; wasn't it?

Ms. Breslaw. Of course, yes.

Mr. LaRocco. I want to turn to the issue of the secret taping between you and Ms. Lewis. How was that done? Was she wired? Where do you think the microphone was?

Ms. Breslaw. I have no idea, sir. All I can tell you is that she certainly did not tell me that she was recording the conversation. As I mentioned in my opening statement, she went to some lengths to give the appearance that the conversation was very casual and, again, as I have mentioned, she did not even take notes of the conversation.

Mr. LaRocco. And you, obviously, were surprised about the secret taping?

Ms. Breslaw. Of course.

Mr. LaRocco. Was it in violation of Federal statute, the taping?

Ms. Breslaw. I do not know, sir. I know that in some States that kind of taping is illegal. I am not sure what the Federal rule is.

Mr. LaRocco. And professionally. You are an attorney and——

Ms. Breslaw. Well, actually, I think if Ms. Lewis was an attorney, there would be further ethical problems. It is my understanding that actually there are ethical rules against attorneys doing that.

Mr. LaRocco. Mr. Roelle, you mentioned contacts. Were there contacts between the RTC and the Bush administration about Madison Guaranty rather than briefings? I am trying to get to the bottom of this.

Mr. Roelle. I would be happy to tell you the same thing I told the Senate. Going on with my previous discussion, about a week after Mr. Casey came back to me and said he had just had a call from an official at the White House inquiring about the criminal referrals, and I said you cannot discuss the criminal referrals with anybody at the White House. He said, OK. I will go back and tell them we can't discuss it; and I said just tell them that they have been referred to Justice and they cannot be discussed. And he said, all right. And then he came back and said that he had done that. That is all I know.

Mr. LaRocco. Did Mr. Boyden Gray call the RTC seeking more information; is that what you are saying?

Mr. Roelle. That is what I was told.

Mr. Vento. If the gentleman would yield, the point is he went to the Oversight Board in the first place. There are Cabinet and private citizens on the Oversight Board, aren't there?

Mr. Roelle. I don't know who he talked to, Mr. Vento.

Mr. LaRocco. Reclaiming my time.

The point is that the contacts apparently were made in 1992. And they thought that they had some—I yield back the balance of my time.

Thank you, Mr. Chairman.

The Chairman. The time of the gentleman has expired. Mr. Johnson.

Mr. JOHNSON. Mr. Ryan, did you approve of the BCCI buyout of American Bank in Washington when you were in the FDIC?

Mr. RYAN. I wasn't in the FDIC. I was on the staff of the Federal Reserve Board as the Director of the Division of Banking Supervision and Regulation. The Board of Governors of the Federal Reserve approved the case. I was the chief staff person working.

The CHAIRMAN. The gentleman is certainly outside of the scope of this hearing.

Mr. JOHNSON. OK, Mr. Chairman. Thank you.

Can I ask you why you denied documents to Mr. Leach in his request earlier this year?

Mr. RYAN. I denied documents to Mr. Leach because that was our interpretation of the laws governing the release of information——

Mr. JOHNSON. But had you provided documents in other cases?

Mr. RYAN. I believe we provided documents——

Mr. JOHNSON. What caused this change in policy?

Mr. RYAN. I don't believe we changed the policy.

Mr. JOHNSON. For this one instance, it appears you did.

Mr. RYAN. I don't think we did. We are engaged——

The CHAIRMAN. The gentleman is again outside the bounds of the scope of this hearing and is actually treading on a pending judicial or a matter in litigation in the suit brought by Mr. Leach as a result of the refusal, and Mr. Ryan is correct in stating that he was following the procedures.

Mr. JOHNSON. Well, I understand that. He didn't want to answer questions about his own personal life during the 18 months he was out of government, so he doesn't want to answer this, either.

The CHAIRMAN. Well, now, the gentleman is, I think, transgressing here referring to a witness' personal life for recusal. That is certainly out of the bounds of any committee's jurisdiction.

Mr. JOHNSON. OK. Mr. Chairman, let me ask the question, and if I could have a little time back from you. Did you send Ms. Breslaw to Kansas City yourself?

Mr. RYAN. No, sir, I didn't.

Mr. JOHNSON. Who did that?

Mr. RYAN. I don't know.

Mr. JOHNSON. Well, you were kind of Acting CEO at the time?

Mr. RYAN. I was.

Mr. JOHNSON. Who would do that?

Mr. RYAN. The person in charge of the PLS.

Mr. JOHNSON. And you knew about it?

Mr. RYAN. No. I am not sure I did.

Mr. JOHNSON. So on matters of that nature, you don't keep track of why your people are out there on a specific charge like that?

Mr. RYAN. We have an awful lot of cases that are under investigation.

Mr. JOHNSON. OK. Well, were you briefed when she came back in?

Mr. RYAN. No.

Mr. JOHNSON. So you don't have any knowledge of Madison. What you are saying to us, you kept yourself isolated from the Arkansas development?

Mr. RYAN. I don't believe I said that, sir. I said I didn't get briefed when Ms. Breslaw came back.

Mr. JOHNSON. Did someone offer you a package of material relating to that investigation?

Mr. RYAN. Someone at a meeting offered me a copy of the criminal referrals.

Mr. JOHNSON. And did you look at them?

Mr. RYAN. I did not take the copy of criminal referrals that were—that was offered to me——

Mr. JOHNSON. As the CEO at RTC, you didn't know—want to know what was going on in the RTC?

Mr. RYAN. Yes, sir, I did want to know what was going in the RTC.

Mr. JOHNSON. Did you look at them?

Mr. RYAN. I did.

Mr. JOHNSON. So you knew what was in them then?

Mr. RYAN. I learned what was in them later, yes.

Mr. JOHNSON. Well, wait a minute. If you looked at them, you knew what was in them then, not later.

Mr. RYAN. At the particular meeting you are referring to, I was offered a set of the criminal referrals. I did not want to keep a set in my office.

Mr. JOHNSON. But you read them first?

Mr. RYAN. Subsequently, a week or so later, I read them; yes, sir.

Mr. JOHNSON. And who did you talk to about them?

Mr. RYAN. I talked to my general counsel about them.

Mr. JOHNSON. But no one in the administration?

Mr. RYAN. Absolutely not.

Mr. JOHNSON. OK. I guess you just kept that to yourself. Did you discuss it with your staff other than the counsel?

Mr. RYAN. I don't recall that I did.

Mr. JOHNSON. And did you at that time know that Ms. Breslaw was—I guess this happened before that was going out there so you didn't follow it even though you knew there was some indication of criminal suspect?

Mr. RYAN. Ms.——

The CHAIRMAN. Will the gentleman yield to me here?

Mr. JOHNSON. Sure.

The CHAIRMAN. Mr. Johnson, Ms. Breslaw is a civil litigation officer, not criminal. So I think that is where the confusion is rising. I just wanted to point that out so the gentleman has about 15 seconds.

Mr. JOHNSON. I appreciate that. Well, did—were you brought up-to-date on the civil aspects of the case, as well as the criminal aspects of it?

Mr. RYAN. I have been briefed from time to time about the status of the investigation; yes, sir.

Mr. JOHNSON. I see. And why didn't you pursue that to get it in ahead of the deadline, you know, before it was extended, the statute of limitations?

Mr. RYAN. The statute of limitations was extended by the Congress and signed into law by the President and it gave us more time to complete our work.

Mr. JOHNSON. Were you going to stop it before that happened?

Mr. RYAN. I can't speculate about what we might or might not have done.

Mr. JOHNSON. Were you pressured to stop it in any way?

Mr. RYAN. No, sir.

Mr. JOHNSON. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman. Let me proceed with the line of questioning that Mr. LaRocco had with Mr. Roelle. I think we had established—Mr. Roelle, pull the mike close, so that I and others can hear—we had established that Mr. Casey had, in fact, said that he was going to tell the Oversight Board about the criminal referrals that were associated with Madison in 1992, even prior to the election; is that correct?

Mr. ROELLE. Yes.

Mr. VENTO. Then he said he was going to and the fact that Mr. Boyden Gray, you testified here, actually called you back and inquired about them, that would have demonstrated that there was further information coming from someplace concerning the criminal referrals; is that correct?

Mr. ROELLE. He did not call me back; no, sir.

Mr. VENTO. Who did he call back?

Mr. ROELLE. I believe I just said he apparently had called Mr. Casey because Mr. Casey——

Mr. VENTO. He reported that to you?

Mr. ROELLE. And said that he received a call from the White House inquiring about the criminal referrals. I and he had a conversation.

Mr. VENTO. So somehow the information got leaked to the White House through news reports or whatever. You don't know?

Mr. ROELLE. I don't know how it got there.

Mr. VENTO. The point is though that there was a policy at RTC instituted somewhere during the course of the conduct and administration of the corporation which did report high profile cases to the administration; is that correct?

Mr. ROELLE. No, that is not correct.

Mr. VENTO. To the head of the CEO of the RTC?

Mr. ROELLE. That is correct.

Mr. VENTO. And that was Mr. Seidman; is that correct?

Mr. ROELLE. It would have been—before Mr.——

Mr. VENTO. Mr. Seidman was one CEO?

Mr. ROELLE. Well, yes, Mr. Seidman was CEO, but I think it was really the board of directors at the time that Mr. Seidman was running the RTC——

Mr. VENTO. Our reorganization has complicated this. Our reference on reorganization, yes.

Mr. ROELLE. There is more than the reorganization that has complicated the RTC.

Mr. VENTO. I grant you that. That is one of the reasons there was an effort to try and straighten it out again I guess these past years.

But that may be beyond the scope of the hearing here. I don't know.

The issues that you reported, you were the contact person to report criminal referrals to the CEO or whoever is the responsible party was the chairman of the board of directors?

Mr. ROELLE. I would be the responsible party for criminal referrals because investigations were on my side of the RTC.

Mr. VENTO. So you reported a number of these from a Member of Congress; is that correct?

Mr. ROELLE. No. The only ones that I ever discussed were the ones that were very high visibility that were reported to me were the ones concerning these that we have talked about today and the ones relating to Lincoln.

Mr. VENTO. To Lincoln, were the others—were you aware that there were other reports? Your testimony you said in your transcript here at the inspector general or with the interview, the interview I have here indicates that you reported that there were other individuals, that somebody reported to the White House or, pardon me, reported to the CEO on the Silverado issue.

Mr. ROELLE. I don't think I said that.

Mr. VENTO. It is in your testimony, in the transcript.

Mr. ROELLE. If I could see the transcript, I would be happy——

Mr. VENTO. Well, it is in it, and I would be happy——

Mr. RIDGE. Mr. Chairman, the witness has asked to see the transcript in order to respond to the question. Would the gentleman——

Mr. VENTO. I have on tab 24, Mr. Chairman—the issue with regards to the Governor of Arizona, did you report that to—as a high profile case yourself?

Mr. ROELLE. Yes, but that wasn't Silverado.

Mr. VENTO. No, it is not. It was not. Did you report—were you aware that there was any reporting with regards to Silverado?

Mr. ROELLE. Reporting of what?

Mr. VENTO. Of a high profile issue with regards to that.

Mr. RIDGE. Mr. Chairman, before the witness answers, is this within the scope of the investigation, the inquiry this morning, this line of questioning, Silverado?

The CHAIRMAN. Well, it isn't Silverado.

Mr. VENTO. Well, Mr. Chairman, the point I am trying to establish, of course, if I could be recognized on the parliamentary point of order the gentleman is making, if that is what he is asking for a ruling on, that we are trying to establish that there was a procedure in the RTC to report high-profile individuals to the CEO including in 1992 with regards to Madison and in earlier years with regards to other individuals in Illinois that were high-ranking officials, with regards to the high-profile individual in Arizona and with regards to the Silverado issue, Mr. Chairman.

The CHAIRMAN. I believe the gentleman could very well ask the witness if there is such a policy in a general sense without going into specific cases that then would enlarge the scope.

Mr. VENTO. Well, I reframe my question. Is there a general policy with high-profile cases that had been reported and you in fact did some reporting yourself; is that correct?

Mr. ROELLE. That is correct.

Mr. VENTO. Mr. Chairman——

The CHAIRMAN. The time of the gentleman has expired.

Ms. Pryce.

Ms. PRYCE. Thank you, Mr. Chairman. Ms. Breslaw, you have made much about being lured into a comfortable office and lulled into making some statements. Do you believe that the fact that you were in a comfortable setting and casual conversation has any bearing on whether or not you would be truthful?

Ms. BRESLAW. No, but what is, I think, apparent is that people speak differently when they think they are speaking on the record.

Ms. PRYCE. OK. Does that mean that you would have spoken untruthfully, though, that's the question?

Ms. BRESLAW. I would not have spoken untruthfully in any circumstance.

Ms. PRYCE. OK. Your statement——

Ms. BRESLAW. People just tend to be more formal when they speak on the record.

Ms. PRYCE. I understand that and it is perfectly reasonable. Your statement through part of that conversation—I think if they could say honestly the head people, Jack Ryan and Kulka, would like to be able to say Whitewater did not cause a loss to Madison.

Now, there is nothing dastardly about this statement. And my line of inquiry isn't designed to read anything into this. I think the whole course of these proceedings will be telling as to that. But now that you know what you said, what did you mean?

Ms. BRESLAW. Well, again, as I have testified, I still have no recollection of making that remark, so I really cannot speculate what may have been on my mind 6 months ago when I made a remark that I don't remember making.

Ms. PRYCE. But you do remember the conversation?

Ms. BRESLAW. I remember generally that I spoke with Laura Jean Lewis, that is true.

Ms. PRYCE. You can't explain to us why you reference Mr. Ryan and Ms. Kulka?

Ms. BRESLAW. No.

Ms. PRYCE. Have you had an opportunity to listen to the tape in its entirety?

Ms. BRESLAW. No. I have had the opportunity one time to listen to what I believed to be was a portion of the tape.

Ms. PRYCE. Did that not help you to understand the tenor of the conversation and where it was going, and perhaps help you to answer my question?

Ms. BRESLAW. Well, it reminded me that it was a very casual, off-the-cuff conversation, but it did not refresh my recollection of the particular remarks that you are concerned with.

Ms. PRYCE. Well, now, let me reference an E-mail of March 24—are you familiar with that? Would you give her that—from you to Mr. Ryan, Ms. Kulka, Hindes, Gabrellian, and Knight. You are familiar with that. Is that yours?

[The E-mail referred to can be found in the appendix.]

Ms. BRESLAW. I believe it is, yes.

Ms. PRYCE. And the bottom paragraph at the very paragraph, the second line from the bottom, you categorically deny making the statements attributable to you.

Now, that was to Ryan and Kulka, the two people that you implicated in your statement; isn't that correct?

Ms. BRESLAW. It is generally. I think the date of the E-mail is very important. This was an E-mail that I sent the afternoon that Congressman Leach made his public statement. As I have testified, I denied that day making these remarks because I just didn't think that I had made them, and this E-mail is consistent with what I said to the press that day. I just didn't think that I had made those remarks and that is why I denied making them.

Ms. PRYCE. Well, why were you so certain that you did not make them? The words came out of your mouth. Mr. Leach, a very reputable Member of Congress did not just dream it up out of the air. Perhaps if you weren't certain, you could have couched your terminology in "I don't remember," I mean, we have heard so much of that, but you categorically denied making them.

Ms. BRESLAW. Again, I think I reacted in a very visceral way. I was so surprised to find myself, a staff attorney, being publicly attacked from the floor of the House of Representatives and with all due respect to Congressman Leach, if he made requests to interview me in December or January, that still does not explain why he never asked for an explanation from me at some point after February 2 when he found out about this conversation.

Mr. LEACH. Would the gentlelady yield?

Ms. PRYCE. Yes, I will, Mr. Leach.

Mr. LEACH. Mrs. Breslaw, all I did put in the record was a quotation of yours. That quotation was based upon a memorandum. It was verified by me, I listened to a tape of the conversation. That quotation was 100 percent correct. There was no reason to consult you to ask if the quotation was valid or not. You are not disputing the quotation, are you?

Ms. BRESLAW. I am saying I don't recall it, but what I am also saying is and, as my statement reflects, the situation is a bit more complicated than that.

Mr. LEACH. Excuse me. Are you disputing the tape?

The CHAIRMAN. The witness has answered this once before, Mr. Leach.

Mr. LEACH. But you are accepting the veracity of the statement, are you not?

The CHAIRMAN. She has answered that and I think that to try to repeatedly entrap her, which is what it amounts to, is unfair and unjust and it is tantamount to brow-beating a witness and under the rules, I must ward off that.

Mr. LAZIO. Point of order, Mr. Chairman.

The CHAIRMAN. The record has already been stated. We have one member reading from the transcript of that recorded conversation that was recorded.

That was recorded secretly and without any prior knowledge of Ms. Breslaw nor any courtesy extended to her to have her review, and she has explained the particulars. Now——

Mr. LAZIO. Point of order, Mr. Chairman.

Mr. BACCHUS OF FLORIDA. Point of order, Mr. Chairman. I believe it is my turn to speak next.

Mr. LAZIO. I believe the question from Mr. Leach as I heard was the statement that Mr. Leach made on the floor accurate.

I don't think that has ever been answered by this witness.

The CHAIRMAN. The Chair will not recognize any additional discussion on that point. That has already been answered, the record clearly shows it. The witness has spoken, has gone, I think, to great lengths to explain in the case of four other Members of the House.

So, Mr. Bacchus.

Mr. BACCHUS OF FLORIDA. Thank you very much, Mr. Chairman.

Mr. Ryan, I have a few questions of you, sir. Mr. Ryan, you have testified that you are a career public servant.

Mr. RYAN. Yes, sir.

Mr. BACCHUS OF FLORIDA. So you are not in any way tainted by the soil of politics, unlike those of us who sit here on the committee.

Mr. RYAN. I don't mean that in any pejorative way.

Mr. BACCHUS OF FLORIDA. I understand, sir, and applaud you for doing your job and being willing to do the job we haven't found too many people who are willing to do.

The CHAIRMAN. Will the gentleman yield to me?

Mr. BACCHUS OF FLORIDA. Yes, sir.

The CHAIRMAN. Mr. Ryan stated he worked for the Federal Reserve.

Mr. BACCHUS OF FLORIDA. I may have to reconsider, Mr. Chairman.

Mr. Ryan, I know from your testimony you say, let me note that Mr. Altman's instructions to me, when you met with him and other RTC staff always was to deal with Madison Guaranty the same as the RTC would deal with any other similar institution; isn't that correct?

Mr. RYAN. Yes, sir, that is correct.

Mr. BACCHUS OF FLORIDA. So you asked them to follow regular procedures?

Mr. RYAN. Yes, sir.

Mr. BACCHUS OF FLORIDA. And you testified here today, quote, "I have never instructed anyone to do anything but find the truth and work to see if the RTC had a cost-effective civil case as is our regular procedure."

Mr. RYAN. Yes, sir.

Mr. BACCHUS OF FLORIDA. Mr. Ryan, the losses at Madison, are they large or small when compared with the losses at other thrift institutions under the purview of the RTC?

Mr. RYAN. They are small in terms of absolute dollars compared to some of the larger institutions. Relative to the size of the institution, the losses were quite high.

Mr. BACCHUS OF FLORIDA. But compared with other institutions, the $60 million that we hear from the Republicans again and again was relatively small and you have limited resources, do you not, Mr. Ryan?

Mr. RYAN. Yes, sir.

Mr. BACCHUS OF FLORIDA. Is it regular procedure to place four full-time PLS line attorneys, two part-time line attorneys, two paralegals, two secretaries, and to top it all, some very expensive outside counsel on a civil case involving the failure of a $400 million thrift institution; is that regular RTC procedure?

Mr. RYAN. I don't believe.

Mr. BACCHUS OF FLORIDA. Is that what you have done with Madison?

Mr. RYAN. Yes, sir.

Mr. BACCHUS OF FLORIDA. So you haven't followed regular procedures even though you told us in your testimony that you in fact followed regular procedure and were instructed. Is it regular procedure to hire an outside counsel for a thrift the size of Madison?

Mr. RYAN. Let me ask Mr. Hindes, who is the head of our PLS unit, to respond to that.

Mr. BACCHUS OF FLORIDA. Let's ask him what percentage of your attorneys and your resources are being devoted to Madison?

Mr. HINDES. I have no way of calculating the percentages; certainly it would be——

Mr. BACCHUS OF FLORIDA. Do you have any institutions that have—to which you are devoting as many resources?

Mr. HINDES. I don't have any institutions at this time where this number of people would be assigned.

Mr. BACCHUS OF FLORIDA. OK, and yet although, relatively speaking, this is a small loss compared with the other institutions, you are putting more resources into this investigation than into any other right now from your limited resources; is that correct, sir?

Mr. HINDES. Given the time constraints under which we are operating and the scrutiny which this matter is obviously getting and will get, I believe it was imperative that we put some of best people——

Mr. BACCHUS OF FLORIDA. Despite the implications that are being made by some of the President's adversaries, it seems to me that the professional employees, the people at the RTC are actually investing more of the people's limited tax dollars and more of their limited resources into investigating Madison than any other institution; is that correct, sir?

Mr. HINDES. We aren't spending more than we have——

Mr. BACCHUS OF FLORIDA. You just testified just a moment ago that you were putting more of your limited resources into Madison than into any other institutions in the country even though it is relatively smaller and has relatively less losses than the others.

Mr. RIDGE. Mr. Chairman, could the witness be allowed to answer the first question?

Mr. HINDES. In some other institutions like Lincoln, professional liability matters have gone on for years.

Mr. BACCHUS OF FLORIDA. Ms. Kulka, I have a question for you. We have had some questions about whether Mr. Nussbaum thought that you were the right person to review this matter. I know of no reason that you were not the best. I can tell you have done a good job at RTC.

But do you think that it is fair and professional and appropriate that this amount of the limited resources of the RTC are being put into Madison compared with say Home Fed Saving where you have got billions of dollars in potential losses.

Ms. KULKA. I think that given the scrutiny the agency is under and the credibility of the agency being so tied up with the way in which we conduct it that it is reasonable given other circumstances——

Mr. BACCHUS OF FLORIDA. I hope you are right. I am a little worried that in a year or two more what you will find out you haven't been doing in some of the other agencies when the press isn't looking.

I yield back whatever time I may have left, Mr. Chairman.

The CHAIRMAN. Mr. Linder.

Mr. LINDER. Thank you, Mr. Chairman. Mr. Dudine, how often do American citizens get tipped off in advance that they are going to be named or mentioned in an RTC criminal referral?

Mr. DUDINE. Congressman, my experience with the RTC in handling at least 1,200 referrals that RTC investigators made and maybe another 6,000 or so that were inherited from the institutions themselves, I am not aware that any of those referrals were even made public.

Mr. LINDER. So this is the first one where the persons pledged in the referral were tipped off, the only one that you know of?

Mr. DUDINE. I have no knowledge of the information that was received.

Mr. LINDER. You are the Director and have been—for the entire time the RTC has been in business, you have been the Director of Office of Investigations?

Mr. DUDINE. Since December 1989.

Mr. LINDER. Is it rare to actually bring draft criminal referrals to Washington from regional offices before they are sent to Justice?

Mr. DUDINE. It is rare.

Mr. LINDER. How many times have you seen that happen?

Mr. DUDINE. I have seen it happen in at least one other case.

Mr. LINDER. Since this one or before this one?

Mr. DUDINE. My recollection on that is probably since.

Mr. LINDER. You testified the only reason you received the referrals was to mediate a dispute between investigators and legal people in Kansas City; is that correct?

Mr. DUDINE. That is correct.

Mr. LINDER. I must tell you that the timing of it would lead me to be suspicious about that. We have in this entire circumstance seen a single press inquiry generating 40 contacts among the top people in this administration. We have witnessed a monumental collective loss of memory.

We have seen a questionable use of confidential IG investigation to prep witnesses the Secretary of Treasury as to think that his top staff lied about his role in memos, in diaries, and phone calls. And we have got a series of people lying to their diaries for some inexplicable reason, but the timing of these meetings, phone calls, tipoffs, legal reviews suggest that this is about more than press inquiries.

The Fiske Report reveals that a gentleman named James Lyons had contacted Vince Foster several times before his death. The Lyons Report was the report that was generated in 1992 to whitewash the Whitewater affair in which he said it was simply a $69,000 loss, which we now know is not true, and he apparently did that report without looking at any of the books.

In August 1993, David Hale's attorney, Randy Coleman, calls the White House associate counsel, and said we have clients with mutual problems developing in a Federal investigation down there.

And he returns the call a few days later and asks if Hale would allege any face-to-face meetings with Bill Clinton, and his attorney says yes.

In September 1993, David Hale seeks to plea bargain by offering information on Bill Clinton and Jim Guy Tucker. September 15, Randy Coleman replies to Paula Casey, I can help but sense the reluctance in the U.S. Attorney's Office to enter into plea negotiations.

On the 16th, Paula Casey reiterates her earlier position that she would not grant immunity to David Hale. On the 20th Randy Coleman replies to Paula Casey: Apparently, we are not going to achieve anything further. On the 23rd, David Hale is indicted. The 23rd, the RTC sends a criminal referral to you. On the 27th Jean Hanson is briefed.

On the 29th, the famous meeting. On the 30th, a memo is written. Ms. Hanson briefed the Secretary. On the 4th or 5th of October, Bruce Lindsey informs the President of the criminal referral. On the 6th, Jim Guy Tucker has a private, 20-minute meeting with the President.

In October 1993, President Clinton names Jim Lyons to an advisory panel seeking peace in Ireland. On October 8, the RTC sends nine additional criminal referrals to the White House. That timing and the activity surrounding this suggests to me that this was far more than a press inquiry. It suggests to me there was a massive coverup at the top of this government to protect the President who was involved with some questionable activities in Arkansas.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Klein.

Mr. KLEIN. Thank you very much, Mr. Chairman.

Mr. Ryan and Ms. Kulka, I think you both make the following statement in your statements—I believe and continue to believe that the overriding goal of the RTC is to pursue in a cost-effective, tenacious, and fair manner the best cases that can be brought against those whose behavior was egregious. The RTC must bring those suits which are cost-effective. Now, I am reading from Ms. Kulka's statements, but I think Mr. Ryan said essentially the same thing.

I happen to agree with that. One of the first things that faced us was the RTC Completion Act, and there is a lot of American taxpayer dollars invested in the failed savings and loan industry. And when we cleaned it up, we wanted to make sure that the American public was getting its biggest bang for the buck. And the way to get the biggest bang for the buck is to pursue those cases that are most cost-effective.

Now, during the period when Madison was taken over, weren't there during that same period approximately, and I address this to Ms. Kulka, approximately 185 thrift institutions that were put into liquidation during the same period so that there would be in February 1984 about 185 institutions where the statute of limitations was drawing to a close; am I correct?

Ms. KULKA. You are relatively correct, sir. The first quarter of 1994 would have had several——

Mr. KLEIN. About 185. Of those 185 institutions where the statute of limitations was about to bring the right to suit to a close, in how many of those did the RTC hire outside counsel?

Ms. KULKA. I don't know the number, sir.

Mr. KLEIN. Well, I know the number. According to our records, it is only one, Madison.

Now, you hired outside counsel for Madison. Is Madison the largest, the one where the potential for recovery was the greatest? It is my understanding that Madison is one of the smallest of the institutions that were liquidated.

Ms. KULKA. It wasn't chosen on the basis of knowledge that it resulted in the greatest loss or had the worst conduct, sir.

Mr. KLEIN. So it wasn't for cost-effectiveness that out of 185 you chose 1—Madison.

Ms. KULKA. No.

Mr. KLEIN. And you have hired outside counsel in that one case. And in that one case, could you tell me how much you have spent on outside counsel so far?

Ms. KULKA. I don't have the numbers, sir, and I don't think it would be appropriate to go over that now, because it might——

Mr. KLEIN. Why wouldn't it be appropriate? Don't the American people have a right to know how much money you are spending in trying to recover money in something that you admit is contrary to your normal policy of cost-effectiveness?

Mr. LINDER. Point of order, Mr. Chairman. Isn't this something that would be more appropriately discussed in the RTC, the statutory RTC meetings that we're supposed to have?

The CHAIRMAN. The Chair's interpretation of the gentleman's question is that it's in order.

Ms. KULKA. May I just respond?

Mr. KLEIN. Well, could you respond? The question is, don't the American people have a right to know how much money you're spending?

The CHAIRMAN. To the extent that——

Mr. KLEIN. And I'd like to know the answer.

The CHAIRMAN. Well, if the gentleman will yield, to the extent that the witness is able to, under the constrictions of her other duty.

Ms. KULKA. First of all, we have investigations going on in all of the failed thrifts where the statute has been reopened. The cost-effectiveness of the matter brought into litigation is evaluated after an investigation. It is not invariably the case that the investigation itself can be cost-effective, because you don't know what you're going to find until you take a look at what you have. We have counsel in place in many of these institutions handling other matters that already may have been brought or in other circumstances that may be appropriate.

With respect to the fees here, the point is that when we complete our investigation and conclude all litigation that arises from it, I think it would be appropriate to explore all aspects of the investigation, including the cost.

Thank you.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KLEIN. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Knollenberg.

Mr. KNOLLENBERG. Thank you, Mr. Chairman.

Panel, welcome. I have just a couple of observations, and I'll have a moment for a question. But it seems to me that a couple of questions that bother me a great deal after listening to the sessions that we've had, and in responding to Mr. Klein, I would just say if we do have—if we do widen the scope of these sessions, we'll get to the bottom of some of the things that bother him and, of course, the things that bother me.

Mr. KLEIN. Would the gentleman yield?

Mr. KNOLLENBERG. No, I would not yield. I want to continue because I've got a limited amount of time.

What is the significance of all these meetings and all of the contacts, or I should say all of the meetings and contacts that you have had with various individuals?

It seems to me that two things disturb me a great deal: Conflicting stories, testimony. Last fall, the President's people found out that the RTC had information that could be potentially damaging to the President. And, in short, we all know about the failed S&L in Arkansas.

And to the gentleman on the other side who made some reference to where's the meat, I would suggest to him that the meat is in Arkansas. I don't believe it is here. It is there. And so I'm as eager as you to get to the bottom of the matter, to have the scope of these hearings widened so we can get to those particular questions that bother you. They bother me, too.

In fact, what we have had, though, is we've had the President's people, to a great extent, scurrying around trying to react to what do we do and how do we put the proper spin on this whole picture. What is right, what is ethical?

Mr. Cutler himself called for reforms. He wouldn't call for reforms if there wasn't something wrong somewhere. Mr. Bentsen, Secretary Bentsen also had some problems that disturbed him. He even sought our help in trying to deal with it legislatively.

At some point, you know, I think what we have to do is we have to stop protecting the President and start protecting the Presidency. Because we all are concerned about that. We need to know whether the President and the people are still—the people involved are putting the public's interest ahead of their own. They want the truth, they want openness, that's already been spoken to by other members.

I do have a question or two for Mr. Katsanos, and in my remaining time. Isn't it true that the—isn't it the tradition for the RTC and the rules of the RTC that you neither confirm nor deny a criminal referral?

Mr. KATSANOS. That is correct.

Mr. KNOLLENBERG. Isn't this what you told the *Washington Post* back on October 31, 1993?

Mr. KATSANOS. I didn't hear that date, but I've told many reporters that.

Mr. KNOLLENBERG. All right. Isn't it true that because you weren't forthcoming with the press or to the press, that reporters went to the Treasury Department to get the confirmation of the information that they sought, that they had?

Mr. KATSANOS. I would have a difficult time responding to that. I know of one reporter that went to the Treasury Department initially, and he never came to me.

Mr. KNOLLENBERG. Do you believe that Mr. DeVore, did he do the right thing or did he do the wrong thing when he confirmed the existence of the criminal referral to the press?

Mr. KATSANOS. I'm not sure what Mr. DeVore said to the reporter, so I couldn't opine on that. I do, generally, agree with Mr. DeVore, who I think is an excellent press person, flack as he describes himself, and that what you have to do with reporters, particularly if you feel they have incorrect information, is try to make sure they know they have incorrect information.

Mr. KNOLLENBERG. At this same time period we're talking about, it would be late September, early October 1993, did you think that any reporter, any reporter actually had copies of the criminal referral?

Mr. KATSANOS. No, I don't believe any reporters had copies of the criminal referrals. I've never seen a copy of the criminal referrals myself.

In fact, the initial press queries coming to me right at the end of September did not initially deal with the criminal referrals. They dealt with questions of the propriety of hiring the Rose law firm and questions regarding that firm's relationship to the RTC.

Mr. KNOLLENBERG. Let me ask you this question. Have you ever seen any of the nine criminal referrals printed in whole or in part in any newspaper?

Mr. KATSANOS. I have in recent months seen newspaper mockups that allude to be portions of the criminal referrals. Whether they actually are or not, I can't say.

Mr. KNOLLENBERG. Newspaper mockups?

The CHAIRMAN. The time of the gentleman has expired.

Mr. Gutierrez.

Mr. GUTIERREZ. Thank you, Mr. Chairman.

I want to thank the witnesses for their testimony, and I will give them a brief break from questions and answers.

Mr. Chairman, these hearings are finally coming to a close. I guess there will be no more fiery partisan rhetoric and no more cute and clever sound bites, no more charges and countercharges, no more arguments and insinuations or accusations, coverup all the way up to the President, lying, distortions, obstruction of justice, quite a bit.

And yet, after a week of this behavior, what have we learned? Almost nothing. Except that Congress has almost the unlimited capacity to be political, partisan, and downright petty, and that we should be more careful, responsible, and fair in conducting an inquiry into whether powerful people in Washington have acted in ways that are outside the law.

And we have also learned that the American people rightly deserve more from their elected representatives. And, unfortunately, I believe these hearings have been based far too much on political rhetoric, on speculation, and on rumors. And quite honestly, the American people deserve much more.

It is absolutely appropriate that the American people should expect, should demand, that no person, not one person, in the Clinton

administration be guilty of obstructing justice. They have every right to expect that the law will be applied equally to every person in this Nation. They have every right to expect that the Congress will look into any serious charges that have been made. That is what we are doing. I hope we will continue to do so. I know that Special Counsel Fiske will continue to do so. Any illegal activity should be uncovered and punished. That is our responsibility.

But, Mr. Chairman, we have a further responsibility. We must put politics aside, particularly, when investigations have been conducted, and have found, as Mr. Fiske has found, no wrongdoing.

Special Counsel Fiske and the Office of Government Ethics have so far found no wrongdoing.

Any reasonable person must agree that we have not uncovered anything of real substance in these hearings. It is now our responsibility to be fair about those conclusions.

We can certainly argue about the judgment of some of the witnesses. But let us turn down our rhetoric and finally look fairly at the facts that have been uncovered and the conclusions that investigators have made, grand juries with wide subpoena powers have made.

Today is our last day on this specific issue, but we will be back. We will be back to investigate more about Whitewater. But we will also be back in this committee and the U.S. Congress to attack the real issues that affect people's lives: Whether every American will have health care, whether we can pass a Crime bill that makes our cities safer, whether we can continue to keep the economy moving forward.

Mr. Chairman, I hope we will address these issues in a more responsible manner in the future. I hope the bitter partisanship of this debate can be set aside so that we can meet those issues and complete the real mission the American people have sent us here to accomplish. No more screaming calls of coverup all the way to the White House and obstruction of justice. I've heard lies, lies, lies, lies. How many times have we heard that during these hearings?

And yet, we have a special prosecutor, a Republican special prosecutor, with a grand jury, with subpoena powers, with so many attorneys that he doesn't probably know what to do with them all. Still, we're supposed to expect that where he found nothing, we were going to find something.

I think that is just totally incredulous and I don't think the American people are buying it. They want health care, they want to be safe in their streets, they want to be able to educate their children for real jobs in the real future.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Lazio.

Mr. LAZIO. Thank you, Mr. Chairman.

The question has been asked whether anybody's on trial here, and the chairman has said nobody's on trial here. And I begin to disagree with that, Mr. Chairman. I think the institution has put itself on trial here.

The question here is, do we care as a committee if we're lied to? I think the Senate Democrats and the Republicans have answered that question. They have answered it through aggressive, probing,

thoughtful questions. And I think they deserve tremendous credit, they are receiving tremendous credit for their behavior. And so we are on trial here and what we expect of our witnesses and the question as to how we can perform our duty if we do not get truthful information.

I would like to ask a couple of questions in the short time we have to you, Ms. Kulka, if I can.

You were—and correct me if I am wrong anywhere along the line here—you were part of the team, the briefing team, that helped prepare Mr. Altman prior to his Senate testimony on the 24th. Is that true?

Ms. KULKA. That's correct.

Mr. LAZIO. During the time that you were preparing Mr. Altman, did you become aware that Senator D'Amato had called or his staff had called to suggest that he may be questioned about possible Whitewater contacts?

Ms. KULKA. I don't recall that I was made aware of that.

Mr. LAZIO. Do you recall the question as to whether contacts between the White House and Treasury or RTC involved in Whitewater came up during the briefings?

Ms. KULKA. Yes, I recall that Mr. Ryan suggested that Mr. Altman be prepared to respond to a question about whether he had any contacts with the White House over it, in the session where Mr. Altman was asking us to find—figure out the toughest possible questions that could be asked.

Mr. LAZIO. And do you recall whether there was discussion about the March contact that Mr. Roelle, I believe, has testified that he had with Mr. Altman, and then that again in September another contact, on September I believe 28, and another contact with Mr. Altman between Ms. Hanson and himself all involving Whitewater, that those three sequential events ever come out during the briefing?

Ms. KULKA. The only event that was described during the briefing was the event in which Mr. Altman discussed the statute of limitations and tolling arrangements at the White House.

Mr. LAZIO. OK. Let me ask you another question, if I can. Drawing your attention to January 25 when you arrived at RTC as general counsel and, according to I believe Mr. Dudine, received the summaries of criminal referrals, do you recall that?

Ms. KULKA. I arrived on January 17 or 18, depending on how you look at it, and I did hold meetings in the next several weeks and it could well be that January 25 was one of the meetings held on Madison.

Mr. LAZIO. Do you recall receiving written documentation of the referrals involving Madison?

Ms. KULKA. Yes, I asked for them and I received them.

Mr. LAZIO. Could you tell us if anybody else, to the best of your knowledge, ever received copies of those documents?

Ms. KULKA. I don't know what you mean anybody else, sir. I know who received the documents when I was there. To the extent that I knew about it, but I'm sure there are many people in the RTC, to the extent they worked on the matter.

Mr. LAZIO. Was there anybody outside of the RTC that knew about that, that—not knew about it. If I can—was there anybody outside of the RTC that received a copy of those documents?

Ms. KULKA. Not to my knowledge.

Mr. LAZIO. OK. I'd like to yield the remainder of my time to Mr. Leach. I'm going to yield the remainder of my time to Mr. Grams if I can.

Mr. GRAMS. Thank you, Mr. Lazio, for yielding.

And I'll begin this line of questioning and then presumably when the time runs out, I would like to come back. I would like to talk to Mr. Katsanos. And, particularly, talk about what has become clear, that is a pathway of contacts that have led from the RTC through the Treasury.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GRAMS. We'll resume this in a moment.

The CHAIRMAN. Ms. Roybal-Allard.

Ms. ROYBAL-ALLARD. Thank you, Mr. Chairman.

I'd like to get back to the secret tapings, because I find it amazing that so little attention or concern has been expressed by the RTC in regard to this.

Ms. Breslaw, much has been made about the secret taping and about the fact that these are in fact your words, but that you don't remember saying them. Before you heard about the tape, before it was released publicly, was there any effort on anyone's part to allow you to listen to the tape so that you could verify in fact that it was your voice on the tape and the conversation that took place with Ms. Lewis?

Ms. BRESLAW. I—personally, this has been a very strange 6 months. As you know, Congressman Leach made his statement on March 24. That statement, I believe, relied on what purported to be a page of notes, again purportedly taken by Ms. Lewis. So at the time he made his statement, there was no suggestion that the conversation had been taped.

At some point later in the spring, and I just don't remember when, there began to be reports in the press that the conversation had been taped. But nobody was playing me any tape. And to the best of my knowledge, RTC management only obtained a copy of the tape within the last few days. So at a personal level it's been very odd for a long period of time to be reading about myself in the newspaper and reading allegations that my conversation was taped, when nobody was making those allegations directly to me, much less playing the tape.

Ms. ROYBAL-ALLARD. So it was never verified by talking to you that it in fact was your voice and your statements then?

Ms. BRESLAW. No.

Ms. ROYBAL-ALLARD. OK. You have mentioned that you were prodded into the meeting with Ms. Lewis. And you have also stated that you did not know her, that you did not go there to meet with her, and that she was not a member of the criminal investigating team. Could you explain what you mean by prodding?

Ms. BRESLAW. Well, first of all, everything that you've said is correct, to the best of my knowledge. When I used the term prodded, what I mean is that Ms. Lewis' supervisor, Richard Iorio, through

the course of the day that I was out there, several times suggested to me that I should meet with Ms. Lewis.

Ms. ROYBAL-ALLARD. Did he give you reasons as to why you should meet with her, especially since you're doing the civil investigation and she's doing the criminal investigation?

Ms. BRESLAW. To the best of my recollection, and I don't recall his exact words, the idea was that because she had worked on a related project, the criminal referrals, that it was possible that she could have some information that would be relevant to the civil investigation. And that is a reasonable possibility, I would say.

Ms. ROYBAL-ALLARD. OK. Mr. Ryan, is the information about the tape, the secret tapings and the fact that they had been released to the press new information for you? I was struck by the fact that Mr. Dudine said in response to a question that when he heard about the secret tapings, he did nothing. He did not talk to Ms. Lewis about it, which implies to me that it was no "big deal," it didn't seem that it was important.

To the best of my recollection, besides Richard Nixon, I cannot remember another incident where one employee secretly taped another employee's conversation and then leaked it to the press. So does this imply, then, that this is not against RTC policy, that it is common practice to have these kinds of tapings and that's why Mr. Dudine never thought to do anything about it?

Mr. RYAN. I would certainly hope not. I find the practice reprehensible and outrageous, frankly, and it undermines the ability of the agency to do its work in a collegial atmosphere. If we can't communicate among ourselves at the staff level, then it's very difficult to do the work of the agency, it seems to me. We don't countenance it. We haven't taken any action in this case.

Ms. ROYBAL-ALLARD. Could I ask why? I mean, are you saying then that you have not initiated an investigation into this, having heard that these secret tapes were done? Have you put Ms. Lewis on notice at all about the impropriety of doing this kind of thing?

Mr. RYAN. We have not.

Ms. ROYBAL-ALLARD. May I ask why?

The CHAIRMAN. The time of the gentlelady has expired.

Ms. ROYBAL-ALLARD. Can he answer the question, Mr. Chairman?

The CHAIRMAN. The answer was in the process.

Mr. RYAN. One of the problems you have, whenever you deal with this kind of a matter, is that if there's an implication or a suggestion that someone at the top may be involved, any kind of discipline that's exerted on the person that's the leaker raises the specter of retribution. And it looks as though the people at the top are trying to cover up by disciplining the person that made the charge.

Ms. ROYBAL-ALLARD. But this isn't a leak, this is a secret taping. It's very different than a leak.

Mr. RYAN. I understand, I agree.

The CHAIRMAN. The time of the gentlelady has expired.

Mr. Grams.

Mr. GRAMS. Thank you very much, Mr. Chairman.

Mr. Katsanos, we'll pick up where we left off here a few minutes ago, but again I want to talk about what has become a clear path-

way of contacts from the RTC to the Treasury Department to the White House, and the apparent pressure has been brought to bear on some of the key players in these investigations, and that is specifically Assistant Treasury Secretary Roger Altman and also Treasury General Counsel Jean Hanson.

Can you talk to us or tell us a little bit about two specific incidents when you were asked to modify the RTC's Early Bird to strike references to Mr. Roger Altman, and also to the First Lady, Hillary Clinton?

Mr. KATSANOS. Those were on separate occasions. The initial case involved the reference to the First Lady, contacts or queries regarding the propriety of the use of the Rose law firm on matters related to Madison. I was——

Mr. GRAMS. Why were you asked to delete her name or the reference to this?

Mr. KATSANOS. I think you would have to ask the person who requested that over at the Treasury Department, Joan Logue-Kinder. My belief from what she was saying is she was concerned that somebody would pick up on that and it would eventually become a news story.

The second matter was a request much later by Howard Schloss, also over at the Treasury Department. He succeeded Ms. Logue-Kinder, I believe. And he wanted Mr. Altman's name in connection to any press queries regarding Madison Guaranty omitted from the Early Bird. And his reasoning, I believe, was essentially the same.

Mr. GRAMS. Now, you told Mr. Schloss at that time, am I not correct, according to your testimony, that he could not order you to remove the name of Roger Altman out of the Early Bird, and he said that he would contact Mr. Altman himself; is that correct?

Mr. KATSANOS. That's correct.

Mr. GRAMS. Did he contact Mr. Altman and did you hear from another source about whether or not to omit the name of Roger Altman from this specific context?

Mr. KATSANOS. I have no knowledge of him contacting Mr. Altman, because I never received written instructions, which is what I told him I would have to have, before I would censor our publication.

Mr. GRAMS. Would you describe the pressure that was placed on you to omit the names of both Hillary Clinton and Mr. Altman from the Early Bird as strong pressure or moderate pressure or just a recommendation? And did he give any indication why they would like these names omitted?

Mr. KATSANOS. Your first question, I think Mr. Schloss was rather irate that—this was the first time he had ever called me on any matter and he was somewhat surprised that I wasn't following his instruction. And——

Mr. GRAMS. So strong pressure.

Mr. KATSANOS. Well, he was not happy. And the earlier request from Ms. Logue-Kinder, we had not necessarily the most collegial relationship overall, so I would—I would say she was not as angry as Mr. Schloss.

Mr. GRAMS. Were you offended, or maybe a better word, "surprised" that you would be getting this kind of a pressure from what is supposed to be an independent agency or not politically moti-

vated situation, that you were getting this type of pressure from outside?

Mr. KATSANOS. Well, sir, I think you have to understand that Roger Altman was our CEO, and he was occupying that position with no objection from this body, or the Senate. So if there were any questions regarding his sitting in that position, there were none. He was situated in another building, he had his own staff. The approach that was demonstrated by some of the staff people that were used to assist him on RTC matters was that we were the enemy.

Mr. GRAMS. But in your mind then it was throwing up a flag?

Mr. KATSANOS. Certainly, certainly, but also I was told right at the beginning to cooperate with them and my job is to assist the CEO.

Mr. GRAMS. Thank you very much.

Mr. Chairman, I'd like to conclude by making some observations about these hearings myself. First, I think it's clear from these hearings that this administration has no intent of telling the American people the whole truth or what they know, said, or heard, that these hearings have been nothing more than a series of inconsistent testimonies, redacted memos, and selective amnesia. The public may not know the full significance of the tip off——

Mr. BARRETT. Regular order, Mr. Chairman.

Mr. GRAMS. Of the Altman testimony or the Steiner diaries, but they do know something stinks in the Ozarks and they recognize the smell of a coverup in Washington.

Mr. BARRETT. Mr. Chairman, regular order.

Mr. GRAMS. I believe the administration owes the American public an apology at the very least.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman.

Mr. Dudine, how much of a problem prior to this case were leaks with the RTC?

Mr. DUDINE. Well, the RTC has been accused as an agency that leaks quite a bit. With respect to criminal referrals, however, I'm not aware of any.

Mr. BARRETT. So this is the first time in the history of the RTC that there was a problem with a leak of a criminal referral?

Mr. DUDINE. I wouldn't——

Mr. BARRETT. To your knowledge.

Mr. DUDINE. I wouldn't say absolutely there were no disclosures of criminal referrals in the past. But not in the early stages. Criminal referrals are sent to the Justice Department and information gets in the hands of people in the Justice Department and later on information gets out, sometimes legitimately, sometimes not.

Mr. BARRETT. OK. Mr. Katsanos, you are involved in corporate communications. How much of a problem did you see?

Mr. KATSANOS. I didn't hear the last part of that question.

Mr. BARRETT. How much of a problem had you seen prior to this case with leaks on criminal referrals?

Mr. KATSANOS. With criminal referrals, really very little information tended to get out to the press on criminal referrals.

Mr. BARRETT. Do you know of any other cases where there were leaks of criminal referrals?

Mr. KATSANOS. None are coming to mind.

Mr. BARRETT. Why do you think—why do you think this one there was a leak?

Mr. KATSANOS. That would be purely speculative. Obviously, there were some very strong feelings within our own organization. And, unfortunately, I think a climate has been created where if there is a healthy disagreement, what would be in other places a healthy disagreement within an organization, employees have been encouraged by some in the Congress to take that outside the organization.

Mr. BARRETT. OK. Mr. Roelle, you talked to Jean Hanson. Jean Hanson told this committee that you told her that leaks were imminent. Is that correct?

Mr. ROELLE. I did not say they were imminent. I said that in all likelihood because this is such a high visibility issue, it will be leaked sooner or later.

Mr. BARRETT. OK. Were you comfortable about that?

Mr. ROELLE. Reasonably so, because most everything that I thought that should have been absolutely kept quiet at the RTC sooner or later worked its way out. Whether it was before or after the fact, it had a way of getting out.

Mr. BARRETT. Did any of you take any actions to control leaks?

Mr. ROELLE. We did take one action. It was the matters that were leaked with regard to Gov. Fife Symington. And a person ended up leaving the RTC. I do not know the exact way the thing was handled, because I was not party to the actual discipline that resulted, but I know the person left.

And quite frankly, from that day forward, we've had nothing but misery, because we've been investigated, people—every time we start to look at something, people either—if we're going to discipline somebody because they're not good employees, we find that they criticize the RTC. And, unfortunately, sometimes they are correct in their criticisms. Other times they're not.

They seek whistleblower protection. Well, this is important, I don't mean to take your time and I hope it would be restored, but this is why the RTC has been ripped asunder. We've been investigated——

Mr. BARRETT. You answered my question. I appreciate that. Mr. Katsanos, you basically implied that it was healthy for the RTC, if there were disputes, for someone to take it outside.

Mr. KATSANOS. No, that's not what I said. I think an environment has been created by some in the Congress that leads to the effect, that's what Bill Roelle was alluding to. Let me go back to you asked——

Mr. BARRETT. That's right, that's all right, you answered my question, I appreciate that.

Mr. KATSANOS. But you had another question I'd like to answer.

Mr. BARRETT. You've done fine, and I appreciate that.

I just want to make an observation here with regard to Ms. Breslaw, because I think it's important.

And, Mr. Leach, I would ask you to correct me if I'm wrong.

Looking at the *Congressional Record*, the quote I see is: The head people would like to be able to say that Whitewater did not cause a loss to Madison, and it goes on. Looking at Ms. Breslaw's quote, it reads: I think if they could say it honestly, the head people would like to be able to say Whitewater did not cause a loss to Madison.

Frankly, I think that there was some—clearly there was some editing done there. I think that the editing changed what was a thought, because I, frankly, think that Mr. Ryan, Ms. Kulka, would like to be able to say Whitewater did not cause a loss to Madison. But I think the key difference is if someone had been interested in the truth in this, they would have completed that entire sentence, rather than just putting in part of the sentence.

Mr. LEACH. Will the gentleman yield?

Ms. BRESLAW. With all due respect, sir, you are reading from a page of notes, not a quote from a tape.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Bachus.

Mr. BACHUS OF ALABAMA. Thank you.

Mr. Ryan, what do you think about the heads-up that was given to the White House?

Mr. RYAN. I've testified that I was surprised that it was given.

Mr. BACHUS OF ALABAMA. Were you disgusted?

Mr. RYAN. No, I was very surprised when I heard that the meeting had occurred.

Mr. BACHUS OF ALABAMA. You think you had a negative reaction?

Mr. RYAN. Yes, sir, I did.

Mr. BACHUS OF ALABAMA. You think it was wrong?

Mr. RYAN. I don't think it should have occurred.

Mr. BACHUS OF ALABAMA. All right. You don't think it should have occurred.

Thank you.

Ms. Breslaw, did you testify earlier that you don't recall making any mention to Ms. Lewis concerning Mr. Ryan and the general counsel?

Ms. BRESLAW. I believe I did, yes, sir.

Mr. BACHUS OF ALABAMA. You said you didn't make any reference that you recall?

Ms. BRESLAW. Well, I do not recall making any reference to them.

Mr. BACHUS OF ALABAMA. All right.

I have a copy of the general counsel's secretary's notes of your meeting with her on March 25. And let me go over one or two things that should refresh your memory.

On that occasion, in fact, it says that you said you were the one that brought up to Jean Lewis, and you asked her the question: How did it come to happen that you decided to delve into Madison for a criminal referral?

Do you recall saying that? She then asked Jean: How it had come to happen that she had decided to delve into Madison for a criminal referral process in 1992? Why were you out in Kansas City if you didn't have anything to do with criminal referrals, asking her that question? Or is that correct?

Ms. BRESLAW. Well, first of all, I think the record should reflect that you're reading from a page of, as you said, secretary's notes, which were taken during a meeting that Ms. Kulka, Mr. Hindes and I had on March 25. I did not see these notes until about a week ago. These notes were not——

Mr. BACHUS OF ALABAMA. OK. Let me do this.

Ms. BRESLAW. So this is the secretary's best guess?

Mr. BACHUS OF ALABAMA. I'll introduce them into the record, and then just for the record, I'd like to introduce them. I'm not saying you said this, I'm just saying they're on these notes, and I don't have any way of knowing. So I'm not saying that.

It does also say you discussed Jean being a Republican, or said there was a rumor she was a Republican, that y'all discussed the theory of the case. Is that——

Ms. BRESLAW. Well——

Mr. BACHUS OF ALABAMA. Tell you what I'd like to do, I'll introduce these, and if you will maybe give me or this committee a written response after you've had an opportunity for a few days to review those notes, as to whether they are accurate. So let me go on, just let you do that. I don't want to hit you with it right here.

I also want to place before you a copy of a confidential memo at the White House from Harold Ickes to the First Lady, dated March 1 of this year. It deals with the Rose law firm and Web Hubble. And it has attached an RTC report dated February 17. It has some pretty serious charges in there. I would like to introduce those for the record. And I have pulled out——

The CHAIRMAN. The gentleman——

Mr. BACHUS OF ALABAMA. This is a White House document.

The CHAIRMAN. I will object to that because——

Mr. BACHUS OF ALABAMA. Which was produced for this committee. My time, I would like my time to have stopped.

The CHAIRMAN. I know, but the documents the gentleman is asking to present for the record in totality have portions that are not within the scope of this hearing.

Mr. BACHUS OF ALABAMA. No, these were produced to——

The CHAIRMAN. Well, I'll say to the gentleman, stick to his question based on a rapid review by the witness.

Mr. BACHUS OF ALABAMA. May I have my time restored, Mr. Chairman?

The CHAIRMAN. Fifteen seconds as a followup.

Mr. BACHUS OF ALABAMA. Fifteen?

Mr. Chairman, you've taken up over a minute.

Mr. FRANK. Give him a minute.

The CHAIRMAN. We'll give him 15 seconds.

Mr. BACHUS OF ALABAMA. It has some very serious charges in there, one of which said that Web Hubble had some information that could have aided his brother-in-law and his father-in-law's lawsuit. It said that RTC investigators said that it would be naive to think that he didn't supply that information to his family. And they recommended that something be done on that.

But here is my question. I don't—I want to introduce those for the record. My only question is——

The CHAIRMAN. I object.

Mr. BACHUS OF ALABAMA. Are you aware, are you aware that that was faxed to the Justice Department on February 17 of this year, or any of y'all aware, and that 1 hour later it was faxed to Web Hubble, long after he had recused himself from the—this entire matter?

And I am not blaming any of y'all. Are any of y'all aware that it was faxed to the Justice Department?

Ms. BRESLAW. I am not. One thing though, sir, with all due respect, I think the way you just said it was that an investigator alleged that it would be naive to think that Mr. Hubbell would uphold his obligations as our attorney. I think that that phrase comes from a memo that was written, by one person in the field, in either 1989 or 1990, to another person in the field. I did not receive that memo at the time. But yet that memo has been leaked to the press. And with all due respect, reporters write about that memo, they use the passive voice. "Concern was raised." Stop. They say, "Breslaw did nothing." Stop. When it's apparent from that memo, and I was alluding to this in response to questions asked by Representative Roth, the fact is that I never saw that memo. I can't respond to a memo which is not sent to me.

Mr. BACHUS OF ALABAMA. All right. I am going to introduce it for the record.

And I'll make one 10-second statement, Mr. Chairman, if I could, and I'll conclude, with the 10-second statement.

The—and I'm reading from the White House document that was prepared at the White House. It says the RTC concluded that Rose did not disclose either its prior representation of Madison Guaranty or Mr. Hubbell's relationship with Mr. Ward. An ultimate finding that Rose had not disclosed either the prior representation of Madison Guaranty or the Ward relationship, which they did not, would be a finding that Mr. Hubbell was not truthful. Could you agree with that?

The CHAIRMAN. The time of the gentleman has expired.

And the Chair will announce that that has already been placed in the record as of last week.

Mr. BACHUS OF ALABAMA. And I'm placing it again, along with the fax to Web Hubble.

The CHAIRMAN. Well, I will object to that, because it's costly, repetitious, and unnecessary.

Mr. BACHUS OF ALABAMA. All right. And let me say for the record, Mr. Chairman——

The CHAIRMAN. The gentleman is out of order. I'm not recognizing the gentleman.

Mr. BACHUS OF ALABAMA. Well, this is not—this is not more evidence. I simply want to say that I'm not accusing this lady in this regard.

The CHAIRMAN. The gentleman has stated that. The Chair is well aware of that.

Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman.

I have wondered aloud throughout this hearing what this was all about, and I think I began to see the picture yesterday when we got to the fact that all of this apparently emanates from a charge that there has been some official misconduct. And now we've traced

that charge back to Jean Lewis' secret tape recording, which I finally had the opportunity to review last night.

And the relevant part says, I think if they could say it honestly, the head people, Jack Ryan and Kulka, would like to be able to say Whitewater did not cause a loss to Madison. That's at the base of this, as I understand it, and that has gotten taken out of context and became a directive in some way, to interfere with the investigation.

Now, that statement is alleged to have been said by Ms. Breslaw. Is that correct?

Ms. BRESLAW. I believe that's——

Mr. WATT. That's your understanding, that they allege you made that statement, and whether you made it or not, I'm not concerned about. What I am concerned about is whether it was any effort on your part to influence this investigation in any way.

Ms. BRESLAW. It was not. I think it's important to remember two things: First, by February 2——

Mr. WATT. Well, I just want to know if it was an effort on your part to influence the investigation in any way.

Ms. BRESLAW. It wasn't, but I think with all due respect, we have to be precise about which investigation. Mr. Fiske was already working on the criminal one by February 2, and Laura Jean Lewis, to my understanding, was never a member of the team investigating potential civil claims.

Mr. WATT. Was it an effort on your part to impede either of those investigations?

Ms. BRESLAW. No, sir.

Mr. WATT. OK. And if you did make the statement, were you directed by either Mr. Ryan or Ms. Kulka to make that statement?

Ms. BRESLAW. No, sir.

Mr. WATT. All right. Now, I'm—I want to go back and I've looked at the dates, that according to Ms. Kulka's testimony, she came to work in this job in January 1994. And this meeting in which you made this statement apparently took place February 2, 1994. Had you ever even had a personal discussion, one-on-one, with Ms. Kulka, between January 1994 and February 2, 1994 when you made—when they say you made this statement?

Ms. BRESLAW. I would say no. Ms. Kulka spoke to an auditorium filled with the RTC Legal Division when she first came. I sat and watched her introduce herself. I believe a few days after that she made a call into my section to request some documents, and I do not believe that that call was directed to me. I just happened to answer the phone.

Mr. WATT. So the answer is no?

Ms. BRESLAW. Correct.

Mr. WATT. Did you even know Mr. Ryan on February 2, 1994?

Ms. BRESLAW. No, I did not, I had never met him or spoken to him.

Mr. WATT. OK. Now, let me ask Mr. Katsanos, what is—what is the RTC Early Bird?

Mr. KATSANOS. It is deceased, but it was a daily news bulletin I put together at the end of each day to apprise my managers of stories I expected to appear, based on questions put to us by reporters.

Mr. WATT. OK. And when you put it out the first paragraph said the following are emerging news stories the Office of Corporate Communications anticipates will be published. And then you tell people internally not to say anything to the press about these?

Mr. KATSANOS. That's correct. It says it's for internal use.

Mr. WATT. That's why it's deceased, because you decided that was a terrible idea, I bet.

Mr. KATSANOS. I thought it was a wonderful idea, personally, but Senator Boxer disagreed with me.

Mr. WATT. Well, I agree with Senator Boxer, because the best way to get anybody internally to tell the press about something, is to tell them not to tell them about something.

Mr. KATSANOS. Understood.

Mr. WATT. OK, all right.

No further questions.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Castle.

Mr. CASTLE. Mr. Chairman, one observation I might have is a number of members have said we're wasting our time here, the public would rather have us doing other things. Considering some of the things we do to the public on the House floor, I'm not too sure they wouldn't rather have us here.

And I would believe and conclude after hearing all this, that this is a worthwhile inquiry. A lot has been learned. I, frankly, think mistakes were made. I am not suggesting conspiracy, I am not the one to conclude that. But clearly mistakes were made, and, hopefully, we can all learn from this.

I am bothered, quite frankly, by the fact that there were up to 7,200, apparently, Mr. Dudine said, criminal referrals in these RTC matters. There's only one that we know about that was actually referred ultimately to the party which is the subject of it, which is the President and First Lady of the United States of America. I don't know of any others that were discussed. This was discussed at length with 40 different contacts involving high administration officials. And that's a legitimate conclusion. That's something that we have to deal with.

I would like along those lines, Mr. Roelle, to ask you a question or two. As I understand it, Mr. Altman asked you to brief—I've been watching this on television—asked you to brief the Treasury Department's general counsel, Jean Hanson, about the criminal referrals. Is that correct?

Mr. ROELLE. That's correct, sir.

Mr. CASTLE. Now, the RTC is obviously supposed to be an independent government agency. Was it appropriate for the general counsel of the Treasury Department, who is a politically appointed person in this case, to be briefed in this circumstance at all? What's your response to that?

Mr. ROELLE. In normal circumstances, it would not. In the circumstances we were operating in, it was perfectly normal.

Mr. CASTLE. What are those circumstances you were operating in that made it perfectly normal?

Mr. ROELLE. Ms. Hanson, Mr. Newman, probably two or three other Treasury people, attended all of our senior staff meetings on Tuesdays and Thursdays. And on occasion on Friday. We discussed

all sorts of internal RTC matters openly and generally with these people, and in most cases——

Mr. CASTLE. All right. May I——

Mr. ROELLE. All legal policy was——

Mr. CASTLE. Let me go on. You know the problem with the time.

Ms. Hanson also asked you if she and Mr. Altman can see the criminal referrals herself; is that correct?

Mr. ROELLE. I don't recall her saying if she could. I think she asked it in a general way. She said——

Mr. CASTLE. And what was your response to that?

Mr. ROELLE. I said I don't think you should see them, I don't see why you would want to see them. This is only for notifying you that they are going to the Justice Department. You are not involved in it, you're not an acting official.

Mr. CASTLE. So if you had been willing to show them to her, then she would have seen them upon that request, is that correct? The only reason she did not is because you refused?

Mr. ROELLE. We never got to the part where I had to refuse.

Mr. CASTLE. You suggested she should not——

Mr. ROELLE. I suggested it was not a good idea.

Mr. CASTLE. See them? You indicated in some of your earlier testimony here today that after you went in, in September, and I think spoke to her, you did not know about the meeting with the White House at all. In fact, you learned about that, I think, in February 1994. Is that——

Mr. ROELLE. Correct.

Mr. CASTLE. Through the news media, I think is what you said. You indicated that you thought it was wrong that the White House found out about these criminal referrals. Is that correct?

Mr. ROELLE. I said that I—I'm trying to refrain from casting any kind of real interpretation or ethics interpretation because that's been done by almost everybody else. I am saying that based on my 25 years of dealing with these matters, it is improper for anybody to find out about a criminal referral.

Mr. CASTLE. I tend to agree with you on that. You answered Mr. McCollum, I think you said if it's wrong, it hurts a person who would be involved in the criminal referral. We can agree on that. Is that correct?

Mr. ROELLE. That's correct.

Mr. CASTLE. And then you also said that if a person ends up being the subject matter of a true criminal investigation who was in a criminal referral, that that could compromise the case that might involve that person. Is that correct?

Mr. ROELLE. That's correct.

Mr. CASTLE. So in your judgment, it is absolutely wrong that the Treasury Department in any way discussed this case with the White House for the very reasons which you have pointed out, or anyone else if they had done it?

Mr. ROELLE. In my judgment, they shouldn't have been discussed.

Mr. CASTLE. And this would still be wrong whether the officials who were notified be Treasury Department officials or White House officials, actually stepped in and did anything with respect to stopping the investigation or whatever. The mere fact that this has

been discussed is the wrong which has been perpetrated in this particular instance. Is that correct?

Mr. ROELLE. I'm not trying to be evasive. I'm trying to say that I do not think it was proper based on my experience and my judgment. I—the reason I think it's not proper is because whatever the facts are in this case, and I must admit I'm as confused about them, as perhaps you all are, probably the reason that they were discussed is in part why we're having all of this discussion. And I don't know what the facts are. And that's why—that's another reason why they shouldn't be.

Mr. CASTLE. And that's why criminal referrals never should be discussed with the subjects at hand; is that correct?

The CHAIRMAN. The time of the gentleman has expired.

Mr. CASTLE. Thank you, Mr. Roelle.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Hinchey.

Mr. HINCHEY. Thank you, Mr. Chairman, and good afternoon, ladies and gentlemen.

Ms. Breslaw, I'm interested in the questions that were asked before of you by Mr. Watt, and I'm interested in that whole affair that you experienced on February 2, I believe it was, of this year. Primarily, because the outcome of your activities in Kansas City that day in part have been used by Members of the House of Representatives and statements on the floor of the House to try to create a certain picture of what has been going on with regard to Madison. And frankly, I think that the picture that has been painted in that way is very distorted and has given a total misimpression of events to the American people. You were instructed or did you take it on your own to go to Kansas City that particular day?

Ms. BRESLAW. Oh, I was instructed to go by Senior Counsel Mark O'Brelian, who was and I believe still is the team leader, supervising the Madison civil investigation.

Mr. HINCHEY. And that seemed to you to be a reasonable request by him for you to do that?

Ms. BRESLAW. Yes, sir.

Mr. HINCHEY. When you arrived there, you found yourself being shepherded about by Mr. Iorio, as I understand it.

Ms. BRESLAW. Yes, sir. Actually, I spent the bulk of the day reviewing documents that were relevant to a series of assignments that I had in connection with this project. But, certainly, in the afternoon Mr. Iorio did escort me around the offices.

Mr. HINCHEY. And he was particularly interested in your seeing Laura Jean Lewis?

Ms. BRESLAW. That's true.

Mr. HINCHEY. And at some point, you went to lunch and he plied you with liquor or offered you a drink and you refused?

Ms. BRESLAW. Well, he did try to get me to drink alcohol, but I did not.

Mr. HINCHEY. You did not want to drink with him?

Ms. BRESLAW. I generally don't drink when I'm out in a field office with our field staff.

Mr. HINCHEY. And then when you went in to speak to Laura Jean Lewis, you had no idea that your conversation was being taped?

Ms. BRESLAW. No, sir.

Mr. HINCHEY. Have you ever heard that taped conversation?

Ms. BRESLAW. As I believe I mentioned a little while ago, I have now heard what I believe is a portion of that tape, one time.

Mr. HINCHEY. What were the circumstances under which you heard that portion?

Ms. BRESLAW. I testified before the grand jury and the prosecutor played it for me.

Mr. HINCHEY. Prosecutor played you back a portion of the tape?

Ms. BRESLAW. That's correct.

Mr. HINCHEY. What portion did he play you back?

Ms. BRESLAW. He played back a portion that covers some of the conversation that's been discussed here today. The conversation took about a half an hour in February, so I don't recall what—whether it was the beginning or the end, you know, where in the conversation the excerpt was from.

Mr. HINCHEY. So there wasn't anything that struck you about the portion of the tape that was played for you?

Ms. BRESLAW. Well, my impression of the tape was that it was very poor quality. It was virtually inaudible in some places.

Mr. HINCHEY. Virtually inaudible in some places?

Ms. BRESLAW. Yes, sir.

Mr. HINCHEY. Nevertheless, that tape and a transcript of it has been used to characterize the people who took the tape as courageous investigators, and has been used to characterize you and certain events that have taken place surrounding the Madison investigation in a particular way. Do you think that has been fair or do you think that has been just?

Ms. BRESLAW. No, sir, I don't.

Mr. HINCHEY. Why not?

Ms. BRESLAW. Well, sir, again, as I mentioned in my opening statement, no one made any attempt, and aside from Congressman Leach, I mean, no one within the RTC, no one from Kansas, ever raised any questions to me or to my knowledge to my supervisors about any of this. The way this was dealt with was to——

Mr. HINCHEY. Did Laura Jean Lewis ever indicate to you that she was interested in writing a book or did you ever get that impression from her?

Ms. BRESLAW. No, sir, the one time I ever met her was February 2, and she did not talk about that then.

Mr. HINCHEY. Have you been informed she has been negotiating a property rights agreement with a Dallas law firm to protect interest in what might be a book or some other property rights which might——

Mr. LEACH. Point of order, Mr. Chairman.

The CHAIRMAN. Well——

Mr. HINCHEY. Which might in part involve your conversation?

Mr. LEACH. Point of order, Mr. Chairman.

The CHAIRMAN. State your point of order.

Mr. LEACH. The gentleman is asking a question that is outside the purview of this hearing. And beyond that, I would like to assert

to the gentleman that the lawyer who represents Ms. Lewis has just affirmed to my staff that no such negotiations are taking place.

Mr. HINCHEY. Whether or not the lawyer asserted that, the fact is that we have been shown and have in fact a document which pretends—offers to be a document involving a negotiation for property rights between this Dallas law firm, with their names on it, and Laura Jean Lewis.

The CHAIRMAN. If the gentleman will—first of all, time has expired, Mr. Hinchey.

Mr. HINCHEY. Well, the point is, Mr. Chairman, if I may, in response to Mr. Leach. The point is, Mr. Chairman, that this conversation and the way it was taken is critically important. Because much of the characterization that has been employed here by Mr. Leach is based upon that transcript.

The CHAIRMAN. That's true.

Mr. HINCHEY. And it ought to be put in its proper context.

The CHAIRMAN. And the gentleman raised that question with Ms. Breslaw.

Mr. LEACH. Point of parliamentary inquiry.

The CHAIRMAN. Will you let me finish ruling?

I was about to call the gentleman on the fact that he was asking the witness a question that was clearly outside of her range of knowledge inasmuch as she herself had said that she had met Ms. Lewis only that one time and there were no references to anything extraneous to the matter other than what was in the conversation.

Mr. LEACH. Mr. Chairman.

The CHAIRMAN. Mr. Leach.

Mr. LEACH. I would request unanimous consent to place in the record a recently faxed letter that indicates Ms. Lewis has an arrangement with a firm that deals with the copyright of certain slogans. It has nothing to do with any book or movie publications. It is over a year old.

Mr. FRANK. Reserving the right to object.

The CHAIRMAN. The gentleman reserves the right to object.

Mr. FRANK. I am just asking, what were the slogans? You said "slogans." I am wondering what the slogans were, if we are going to be talking about the slogans.

Mr. LEACH. It is apparently acronyms on intellectual property rights.

The CHAIRMAN. In keeping with the Chair's ruling previously in the case of Mr. Kanjorski, I will object because there is nothing in the record that we have yet placed indicating the absent witness' involvement with any royalty contract or anything. All we have in the record or will have—and, in fact, I believe every member should have by now a copy of Ms. Lewis' attorney's letter explaining to us why she could not attend today's hearing, so it wouldn't be proper at this time.

Mr. LEACH. Would the gentleman—may I make a point for clarification?

The CHAIRMAN. Yes, sir.

Mr. LEACH. I want to clarify that this has all just been brought to me in the last 10 or 15 seconds, and I did make one statement out of context. It was not provided by her attorney; it was provided by a reporter, but has the same effect of the——

Mr. FRANK. When you say point of order, Mr. Chairman, the one point I would make, as I understand it, if you publish something in congressional documents, you can lose the copyright; so we had better be careful because in the process of protecting her copyright, if you put some of those documents in there, she is going to lose it.

The CHAIRMAN. Regardless of that legal definition, we are here in pursuit of a hearing within a jurisdictionally limited ambit as set forth by House Resolution 394, and as further refined by the bipartisan leadership agreement. And I had ruled Mr. Kanjorski out of order for that reason, and I must now be impelled to object to the gentleman's request at this point.

The Chair has received notice that there is a recorded vote, but most importantly, one of the witnesses has requested a brief period of time for refreshment.

So, therefore, I am going to say that we will allow the members time to record their vote, and since we have notice that there will be a 5-minute vote after this first vote, I would say that we can stand in recess for about 15 minutes and allow not only the one witness but every one of the witnesses a little bit of relief.

[Recess.]

The CHAIRMAN. The committee will resume.

Mr. Fingerhut.

Mr. FINGERHUT. Thank you, Mr. Chairman. And before I ask some questions of Mr. Ryan, I first want to say that it was really only in preparation for these hearings today that I became aware of the sequence of events involving the conversations between Ms. Lewis and Ms. Breslaw. And I have, I think, been forthright in my criticism of the White House officials for engaging in some conduct that I think was inappropriate.

In a sense of fairness, it must be said that to have learned that a conversation between two employees was taped without the knowledge of one employee and then turned over to—through whatever other hands, to a Member of Congress and then used by this body on the floor is, in my opinion, scandalous and falls substantially below the standard that I think the civil servants of this government should be entitled to.

If this were a constituent of mine, I would be in full cry, I would not allow it; and I think it needs to be said that Ms. Breslaw has been mistreated by this body. As a civil servant of government, I am embarrassed about it.

Now, Mr. Ryan, you are the Acting CEO of RTC, maybe reluctantly. It seems like everybody who we have had before us who held the position of CEO of RTC has held that position reluctantly. But as a result let me direct my questions to you.

The essence of these hearings is about whether or not there have been improper conduct contacts between essentially the political arm of the U.S. Government, represented by the Treasury and the White House, and a regulatory agency—albeit a strange contraption under the law; and what I want to know is as—I can't tell what is happening with the light there, I think I have a little more time than that—as the head of this agency whose job it is to construct this wall between the investigatory responsibilities of RTC and the political arm of the government, which will always in some

way—whether it is Members of Congress who have S&Ls in their districts or, in this case, the White House itself that is involved—are always trying to reach in and make some—and try to take some action. You have got to construct those walls.

What I want to know is, what are you doing, what have you done in this regard: First, with respect to this particular case, to make sure that those walls are there; and second, with respect to the broader question of how a gentleman like Mr. Roelle, when he tried to do the right thing, can be protected and make sure that these actions are all appropriate?

Mr. RYAN. I think that is an excellent question, Congressman.

With respect to this particular case, first, let me say that we have been dealing primarily with responding to the Congress, with trying to get the information, trying to verify what occurred. We really haven't had an opportunity yet to come to a clear decision as to what ought to be done, who is at fault, who did what and when.

We will take that up, and we will do our own internal review to determine what was done, when it was done, who was at fault and who, to the extent we are able, and if they should be disciplined.

Mr. FINGERHUT. If I can interrupt you briefly before you move to the bigger picture, I recognize that any actions you take with respect to this case are going to be under intense scrutiny.

Mr. RYAN. They certainly will be.

Mr. FINGERHUT. Because we are in full investigatory mode.

Mr. RYAN. That is right.

Mr. FINGERHUT. But it seems to me that whatever actions need to be taken, need to be taken regardless of if it is under the broadest scrutiny; and I am reluctant to accept what I take to be your answer that we still have to look into this. I hope this is something you are already looking into, and I would ask what your conclusions or tentative conclusions are with respect to what needs to be done to keep the political arms of our government away from the information over which you control that ought not to be in their hands.

Mr. RYAN. I think—for one thing, I assumed the position of Acting CEO on March 30 of this year. Any Treasury contacts, any contacts with another government agency has ceased as of that date.

Mr. FINGERHUT. By your order?

Mr. RYAN. By my order. And we have——

Mr. FINGERHUT. Is that in writing?

Mr. RYAN. No, it isn't, but we have had no conversations except insofar as we deal with the Oversight Board, which, you know, is chaired by the Secretary of the Treasury. But we have been very careful in our executive committee meetings and elsewhere to ensure that we maintain the independence of this agency.

We have had no meetings, no discussions with the Treasury since I have been CEO regarding any specific case or matter.

Mr. FINGERHUT. And you make that personally known to people in what way, since it is not in writing——

Mr. RYAN. Through our executive committee meetings and through discussions with the senior staff.

Mr. FINGERHUT. I see that my time is up.

The CHAIRMAN. Mr. Huffington.

Mr. HUFFINGTON. Thank you, Mr. Chairman.

Ms. Breslaw, earlier today you stated that you thought that Congressman Leach attacked you on the floor of the House of Representatives. So I went back to March 24 to see exactly what he said. And I quote, on February 2, 1994, the day Roger Altman briefed the White House on Madison Guaranty, RTC Senior Attorney April Breslaw visited the Kansas City office and said that Washington would like to say that Whitewater caused no losses to Madison. Kansas City employees protested that this was not the case.

That is what he said.

Ms. BRESLAW. He also read the ethics rules and accused of me of being an unethical person.

Mr. HUFFINGTON. Let me say this. You now know, though, that he was taking language from a February 2 conversation you had with Ms. Lewis which says, and I quote, "Jack Ryan and Ellen Kulka would like to be able to say Whitewater did not cause a loss to Madison."

Now, knowing that, do you really believe he attacked you because he was reading from language that he had of a conversation of yours with Ms. Lewis?

Now, you said you don't remember that conversation, but you have heard the tape, and I presume those are your words. Now, do you remember that you had the conversation that you have heard on the tape?

Ms. BRESLAW. As I testified, I have heard a portion of the tape once. It did not refresh my recollection. Quite frankly, you have——

Mr. HUFFINGTON. They are your words, aren't they? You heard the tape.

Ms. BRESLAW. What did it say——

Mr. HUFFINGTON. Does someone else have a voice like yours?

Ms. BRESLAW. Well, quite frankly, I wasn't sure if that voice was mine, but I am not disputing that at this point.

What I——

Mr. HUFFINGTON. I only have so much time——

Ms. BRESLAW. Sir, I think it is important——

Mr. HUFFINGTON. After the red light, you will have plenty of time. The chairman does not allow us to go past the red light.

I would like to yield the balance of my time to Mr. Leach.

Mr. LEACH. Well, I thank the gentleman for yielding.

Let me first say to Mr. Roelle, as keeper of the referrals, I think you have done a very ethical job. It strikes me that, unfortunately, as the information about the referrals got leaked higher, it was not your fault, and the RTC at your level has done a good job in that regard.

Mr. Dudine, I just want to make it very clear that you have testified today that it was unprecedented for the referrals to be sent to Washington. I just want to have that clearly on the record.

The second thing I would like to have on the record is that when they came to Washington there is a time sequence—on September 29, there is a meeting at the White House; on September 30, there is a telephone conversation between Jean Hanson and a White House attorney named Cliff Sloan. That telephone conversation appears to indicate, although it is conjecture, but there were citations

to the vice president of the Kansas City office which might indicate that there was a possibility that a conversation between Glion Curtis and the vice president of the Kansas City office had taken place.

There was also an indication that the referrals might not be sent to Kansas City until approximately that Friday, so both process and information about the referrals occurred.

And so the other thing I just want to stress as strongly as I can, as everybody at this table understands, is that the legal analysis that was developed, as reflected in the E-mail, was intended to be fairly critical of the referrals. I mean, it was a legal analysis critiquing the referrals. So what occurred was a major critique of the referrals, which was then developed after the delay that Washington played a part in.

And I don't think a week is any big deal; I don't deny that. But after a week in which Washington played a part, in which information went to the White House, somehow, somewhere, some people might have gotten an inkling of the seriousness of the situation; and it took great courage in the criminal investigations unit to refuse, based on the issues raised, to amend these referrals.

Now, am I saying anything that is wrong? Mr. Dudine, would you object to that chronology? I am not suggesting you have done anything wrong, but I just want to lay the chronology on the table. Is that valid?

Mr. DUDINE. I won't argue with the chronology, but let me just suggest that the referrals that I had in my possession were controlled very carefully. None of the information that I had was even—did I even pass up to Mr. Roelle at the time.

Mr. LEACH. I appreciate that.

The other thing——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FRANK. Mr. Chairman, could I make a unanimous consent request?

The CHAIRMAN. State your unanimous consent request.

Mr. FRANK. Ms. Breslaw indicated she wanted to respond to something that Mr. Huffington had said. I would ask unanimous consent that she be given a minute to do so with no—it seemed to me that she had a right to respond if she wanted to.

The CHAIRMAN. May I ask the gentleman—rather, say this: That it is not necessary to seek the unanimous consent for that. I had intended to recognize Ms. Breslaw, who was cut off from responding to the obvious attempts of Mr. Huffington to impeach her testimony.

Mr. FRANK. Mr. Chairman, I will withdraw my request.

The CHAIRMAN. Since Mr. Leach did not follow through with Mr. Huffington's initial statements nor the questions, I will ask Ms. Breslaw if she has a statement to clarify.

Ms. BRESLAW. Thank you, sir.

All I would say with regard to the statement that Congressman Leach made on March 24 is that, as Congressman Huffington indicated, in that statement on March 24, Congressman Leach referenced Mr. Altman's February 2 meeting, I believe, with the White House, in a way to suggest that there was some type of sinister connection between my trip to Kansas City on that same day and Mr. Altman's meetings.

I want the record to reflect that I have never met Mr. Altman, that I have no idea that he was going to the White House that day, and that in my personal opinion, it is unfair, or it was unfair at that time, for Congressman Leach to try to link those two completely unrelated events together in a way to suggest that there was some type of conspiracy which I was participating in.

So in my personal opinion, that connection was unfair. That is all I would say.

The CHAIRMAN. I thank the gentlelady.

Mr. LEACH. Mr. Chairman, may I be allowed to respond?

The CHAIRMAN. Mr. Leach, I will not recognize you for that purpose. Because she was not given an opportunity, and on top of that, Mr. Huffington stated that she could speak after the red light went off because I cut off everybody at the red light.

But to put it mildly, I am just trying to do the best I know how to carry out the rules of the House and the committee. I have said that repeatedly. And since she was not given that opportunity, I have done so in the case of every other, so I don't think it would be proper now to subject her to a counterargument or rebuttal, since she has responded to the inferences that were, in effect, attacking her credibility or attempting to impeach her credibility.

So regular order here calls for Mr. Nussle.

Mr. NUSSLE. Thank you, Mr. Chairman. I would be happy to yield for what time he may consume to my good friend from Iowa.

Mr. LEACH. I appreciate your yielding just for a few seconds.

I would like the record to show that I never used the words "sinister connection." I do think in all of this there are some very interesting chronological time circumstances that raise questions. That is one of the reasons the minority has asked for hearings and that is not a particularly unfair request.

I must say with Ms. Breslaw, because I happen to share some of the sensitivity issues of the majority and some of Mr. Ryan's observations about taping per se, but because of that, Ms. Breslaw is not entitled to come back and hint about liquor and being enticed into an office. This is, in my judgment, very unprofessional.

Now——

Ms. BRESLAW. Those are facts, sir.

Mr. LEACH. Well, the conclusive aspects of them are hardly of a nature that merits attention. Conclusions have been drawn that are inferences that really are dubious.

Now, I will concur with Ms. Breslaw that she should be sensitive because her conversation was taped, and for that, I have some sympathy. The only place I have particularly little sympathy is both the sentence that was uttered and the strong denial which she made at the time; and so in that, I have a difference of judgment. We all do. But I think that ought to be understood.

I would like to yield back to my friend.

Mr. NUSSLE. I thank the gentleman. I just would like to make a couple of comments at this point.

I have to say to Mr. Roelle that I am very proud of your testimony, in particular, here today when you stated, I believe to one of the opening rounds of questions, that allowing these criminal referrals to get out would do one of two things: It would—first of all, if the information was wrong, it would be hazardous to the reputa-

tions of people who are innocent; and I am paraphrasing, but number two, if the information was right, it would jeopardize the very case that the referrals pertain to. And I have to tell you, as a former prosecutor myself for 4 years, I can't agree with you more that this kind of a tipoff, if you will—I know it has been called "heads-up"; that is more of a baseball terminology. This is a "tipoff" is what it was; let's switch it over to basketball. That is basically what it is.

It is a tipoff, and that is the kind of information that I believe transpired. And when I served as a county official, if I would have given—if we were prosecuting another county official, would it have been appropriate for me to go down and brief them? I don't believe so.

I understand this is the President of the United States. In that official capacity, yes, the President of the United States; but in a personal capacity, it is in fact a tipoff, and it does jeopardize the very case in my opinion, because of the other comment that you have made in your testimony before the Senate and in the House, and that is that oftentimes witnesses can become targets—oftentimes.

And, in fact, if I am not mistaken, I believe either you or someone else indicated that that is part of the briefing that you gave, that witnesses oftentimes can become targets.

The last thing I guess I would point out for the committee is that clearly from the testimony of the last few days we need more information. We are not done here. All of this information that we have received, as difficult as it has been to obtain, only points to the need for more disclosure, so that the American people can get to the bottom of this, so we can find out exactly what happened in this case and we can get to the bottom of whether or not these tipoffs, in fact, did jeopardize the cases that were being referred to the Justice Department at that time.

And I would yield back the balance of my time.

The CHAIRMAN. The gentleman yields back the balance of his time.

Ms. Furse.

Ms. FURSE. Thank you, Mr. Chairman. I apologize for not being here; official business did keep me away.

Mr. Chairman, I would like to yield the balance of my time to Mr. Neal.

Mr. NEAL. Thank you, ma'am, very much.

Mr. Leach claims that there has been essentially an obstruction of justice at the RTC. He says that criminal referrals were improperly delayed for 3 weeks. Now——

Mr. LEACH. Would the gentleman yield?

Mr. NEAL. This is a serious charge.

Mr. LEACH. Point of order, Mr. Chairman.

Mr. NEAL. I do not yield for any points of order, Mr. Chairman.

The CHAIRMAN. The gentleman doesn't yield.

Mr. NEAL. This is a very serious charge. Now, I want a clear answer, if I can, from each of you, yes or no answer.

Were there improper delays of criminal referrals? Has there been any obstruction of justice? Let me just go down the line.

To the best of your knowledge, yes or no to that question.

Mr. HINDES. Not that I am aware of, sir.
Ms. BRESLAW. None that I am aware of, sir.
Ms. KULKA. None that I am aware.
Mr. RYAN. None that I am aware of.
Mr. DUDINE. To the best of my knowledge, no, sir.
Mr. KATSANOS. None that I am aware.
Mr. ROELLE. None that I am aware of.
Mr. NEAL. Thank you.

Now, were any of you ever contacted by anyone at the White House or the Treasury Department regarding the criminal referrals prior to their transmission to the Justice Department on October 8?

Let me just get a yes or no answer.
Mr. HINDES. I wasn't.
Ms. BRESLAW. No, sir.
Ms. KULKA. I wasn't. I wasn't at the agency.
Mr. RYAN. Neither was I.
Mr. DUDINE. No, sir.
Mr. KATSANOS. No, sir.
Mr. ROELLE. I have testified that I spoke with Mr. Altman and Ms. Hanson on September 27.
Mr. NEAL. Well, that is not the White House. I guess the—I see. OK. You are talking about——
Mr. ROELLE. I thought you said Treasury; I am sorry.
Mr. NEAL. You are exactly right. Mr. Leach has claimed that there may have been interference with the criminal referrals, but there is absolutely no evidence that anyone from the White House or Treasury did that. From the evidence presented, the only way the White House or the Treasury could have influenced the criminal referrals was through the Psychic Friends Network.

So I thank you and Ms. Furse.
Mr. FRANK. Would the gentleman yield?
Mr. NEAL. Yes.
Mr. FRANK. I thank the gentleman for yielding, because I want to respond that there was a suggestion that we need more information to find out if there was any interference. The answer is, there wasn't.

Remember, we are not in any way constrained with information about this phase of the hearing. So there isn't anything that has been withheld. All the documents, all the relevant information is here. Everybody has been asked. And, of course, Mr. Fiske has looked into it; and if Mr. Fiske had found any obstruction, I assume he would have brought some charge, so it is very clear that there has been none. Any possible occasion for it has been brought forward.

I want to repeat again February 2 is when Mr. Altman didn't recuse himself, and a week later is when they hired Jay Stephens. But I would also like to point out, Mr. Leach gave a chronology to Mr. Dudine about what happened with the referrals, which is very different; and I take it as an acknowledgment there was an error in the chronology Mr. Leach was talking about yesterday and earlier today, when he talked about the document having been sent over and quoted Mr. Dudine as having said that. It is now clear that Mr. Dudine rejects the notion that he had sent the referral

over, the other document, or that he told anybody that; so even that charge has now disappeared.

I mean, the thing that Ms. Hanson was asked about yesterday, with Mr. Dudine as the source—and Mr. Dudine was asked about today by Mr. Leach—I take it, has been withdrawn, and we now have an acknowledgment that that other document that was prepared hadn't been there.

Finally, I would just like to say to Ms. Breslaw, I think you have done a very able job of dealing with unfairness of which you have been the victim. And I had thought when you were going to respond to Mr. Huffington that you were going to talk part about the phrase "they would like to be able to say it honestly." That was the impression I got.

There was a question about whether or not that tag line was there, but I did want to say that I think you have responded quite well, and as a civil servant who has been doing her job well, I think you have been treated somewhat unfairly. But we ought to be very clear that the one accusation that we previously had from Mr. Leach that there was interference; namely, that Mr. Dudine had said that the supporting document had been sent to Justice appears to have been based on an honest error in Mr. Leach's interpretation of what Mr. Dudine said.

Ms. BRESLAW. Thank you, sir. I appreciate your comments.

Mr. FRANK. I am glad somebody does.

The CHAIRMAN. The time of the gentlelady in yielding to Mr. Frank has expired.

Mr. King.

Mr. KING. Thank you, Mr. Chairman.

Mr. Roelle, I just have a few questions for you. Is there any doubt in your mind that on March 22, 1993 you did brief Mr. Altman about Madison Guaranty?

Mr. ROELLE. No, sir.

Mr. KING. Is there any doubt about your September 27, 1993 conversation with Mr. Altman regarding Madison Guaranty?

Mr. ROELLE. No, sir.

Mr. KING. Based on your experience over 25 years, are there occasions when a person or people who are named as witnesses in a criminal referral become subjects or targets?

Mr. ROELLE. There have been some cases where that has occurred, yes.

Mr. KING. Mr. Roelle, I have—I don't know if you have seen this. This is an interview which was done of Ms. Hanson on July 20 by the staff of this committee and in the course of her interview—and these are notes of the conversations, not a direct transcript—she said that in her conversation with you, I guess that is September 27, you said the referral named the Clintons. Mr. Roelle indicated that if more work was done, it is possible that they could be named as more than just witnesses. Do you recall saying that?

Mr. ROELLE. No.

Mr. KING. You have no recollection of that?

Mr. ROELLE. That is right.

Mr. KING. Thank you.

Mr. Chairman, one of the advantages of being the last to go is I have the chance to sit and listen to the learned pronouncements

of my friend, Mr. Frank, and various things that are said here, but also on a serious note, it gives me the opportunity to take notes as I go along.

I would just like to really offer a few comments since I am the last to go here today. I have sat here through most of these hearings, probably as much as anyone. I put a lot of time into it. I also watched the Senate hearings and as a result of that, I can only say God bless the Senate because I feel that the hearings held in the Senate were much more open. They brought out many more facts and it gave Members the opportunity to get a real opportunity to find out what happened.

I know that there were those who say we are bound by rules in this House and certain rules, and it can't be changed. It reminds me of a book I read a while ago—I guess it was written in the last century—the "Handbook of Political Fallacies," by Jeremy Bentham where he said that blind consistency is the hobgoblin of little minds. I think that was proven here during the last week because we were not able to get at what we wanted to. It was just constant interruptions.

When we did get near the truth we were either gaveled down or interrupted. Also, I was struck by the fact how many times members on the other side would talk about the conduct of prior administrations and I don't see how that is relevant to this one, but in any event, they brought that up I guess as a diversionary tactic.

They were also impressed with how much the Clinton administration was willing to cooperate with this committee. Based on the Whitewater whitewash we have seen over the last week, I can see why they were so willing to cooperate because they had nothing to lose. I can almost say, Mr. Chairman, the fix was in.

Now, even with that, even with the fact that we were so restricted, the fact that we had 10 witnesses—I am not talking about anyone here today, by the way—the 10 White House witnesses that were here, and we had 51 members given an average of 30 seconds to interview those 10 people, with all of that and I still think of the 10 of them sitting here like wooden soldiers all answering no when they were asked did you commit any crime or take any illegal conduct, which was if not the theater of the absurd, I don't know what it was.

With all of that, it is not just not just Republicans that are fed up with this procedure, it is not only Republicans who feel that the White House has a lot to answer. Today the *Washington Post*, which the last I checked is not the *Washington Times*, is not on the payroll of the Republican National Committee, said as a result of their testimony, White House aides have littered the Washington landscape with damaged goods.

Not Republican, Mr. Chairman, it is the *Washington Post*. And I would just say I believe the gentleman before, I believe it was Mr. LaRocco, said we should name names about those who have not told the truth or have not been fully forthcoming. I will say now Mr. Altman did not tell the truth, Ms. Williams did not tell the truth, I said it to their face.

I am saying it again, and if Mr. Bentsen does his job, he will get rid of Mr. Altman. And if we do more examining, we will find the full connection between the First Lady, Maggie Williams, and Mr.

Altman on what was done to interfere with the investigation. And with that, I yield back the balance of my time and hope that the next set of hearings is much more forthcoming and much more productive than the hearings this week.

I yield the balance of my time to the gentleman from Alabama.

Mr. BACHUS OF ALABAMA. I would like to introduce two E-mails, January 10 and January 11, from April Breslaw to various RTC officials concerning her and they deal with her strong opinion that the Rose law firm should not be sued. These E-mails were E-mails while the RTC——

Ms. BRESLAW. Sir, I have never offered and——

Mr. BACHUS OF ALABAMA. They are why the RTC compliance section was trying to determine what——

The CHAIRMAN. The gentleman's time has expired, but I will object to the introduction.

Mr. BACHUS OF ALABAMA. You will object?

The CHAIRMAN. Yes, sir.

Mr. BACHUS OF ALABAMA. I am going to appeal the ruling of the Chair.

Mr. FRANK. It is not a ruling. You asked unanimous consent and he objected. He wasn't ruling.

Mr. BACHUS OF ALABAMA. I move that these be introduced.

The CHAIRMAN. There is no basis under the rules for you to resort to that motion.

Mr. BACHUS OF ALABAMA. Mr. Chairman, may I respond?

The CHAIRMAN. The gentleman is ruled out of order. The documents the gentleman has attempted to place in the record have not been given to anybody else on our side to examine.

And, therefore, the Chair will say that——

Mr. BACHUS OF ALABAMA. Mr. Chairman, these were supplied to the committee by the RTC. And I would make a move that I be allowed to introduce them, and I see absolutely——

The CHAIRMAN. The gentleman is not recognized for the motion.

Mr. BACHUS OF ALABAMA. I appeal the ruling of the Chair.

The CHAIRMAN. It is not appealable.

Mr. BACHUS OF ALABAMA. Sir?

The CHAIRMAN. It is not appealable under the rules.

Mr. BACHUS OF ALABAMA. You ruled I was out of order.

The CHAIRMAN. That is right.

Mr. BACHUS OF ALABAMA. I am appealing that ruling.

The CHAIRMAN. That is not appealable under the rules, sir.

Mr. FRANK. Point of order, parliamentary inquiry. The Chair did not rule that it was out of order, the gentleman made a unanimous consent request and the Chair objected as the Chair was able to.

Mr. BACHUS OF ALABAMA. I move that these two documents be introduced into the record.

The CHAIRMAN. The gentleman is not recognized for that motion.

Mr. HUFFINGTON. We are being railroaded through here. My God, not appealable.

The CHAIRMAN. Mrs. Maloney.

Mrs. MALONEY. Thank you very much, Mr. Chairman. I would like to respond to my colleague from New York. We have had very serious hearings over numerous days in both bodies. Reviewing the evidence, we have had three independent investigations, all of

which have found that there was nothing illegal or unethical that they could find that happened.

As Lloyd Cutler said, possibly there were too many meetings with too many people about too many sensitive subjects, and there have been contradictions, but the main point was whether there was anything illegal or unethical, and so far in these hearings nothing has come forward to prove such through all of these investigations and through the hearings that have taken place here.

Now, if my colleague would like to call for yet a fourth investigation or a fifth investigation, or a sixth investigation, he could likewise call for another set of hearings to review the material that we have already reviewed, but until someone comes forward with some new evidence, then Whitewater and these hearings can be remembered as wastewater. It has not come forward with any of the allegations and innuendos that people were throwing, I think, very irresponsibly at other people.

I would like to yield, Mr. Chairman, I thank you really for these hearings and how well you have conducted them. I would like to yield the balance of my time to my colleague from Massachusetts, Mr. Frank.

Mr. FRANK. First, I would just say to my friend from New York, I think you will find that it was Ralph Waldo Emerson who said a foolish consistency is the hobgoblin of small minds and not Jeremy Bentham.

Mr. KING. I really think it was Jeremy Bentham.

Mr. FRANK. It is going to be on the test and we will get back to that.

But the more important issue is with—well, there are two. First, with repeated reference to the Rose law firm and the designation of Rose law firm, again in order to be clear as Mr. LaRocco brought out, that happened during the Bush administration.

The Rose law firm was hired by the RTC during the Bush administration. As a matter of fact, all of these questions that my colleagues have said they want to get to what happened with Madison Guaranty, and so forth, and so forth, they happened under the Reagan administration and the Bush administration. And that is what is central.

The only allegation that William Clinton as President or any of his appointees misused power have been the subject of these hearings. These hearings have been complete and entire on that subject, that is, any allegation that the Clinton administration interfered in any way, shape, or form with the Whitewater investigation has been fully before us.

It is that which Mr. Fiske has said he has certainly found no evidence that they have. It is that which the Republican appointee, Judge Potts at the Office of Government Ethics said he found no violation, and it is what we have had in these hearings.

There were allegations that there was a problem because on September 29 they told the administration that there was going to be a criminal referral. What happened? They then made the criminal referral. The criminal referral proceeded shortly after the administration was told.

The other thing that happened was that after the administration was told that, the Democratic majority of this House, over the ob-

jection of the Republican minority on the floor, passed a bill which reopened the statute of limitations for civil offenses which had already expired. The statute of limitations on the civil part, it expired. The Democratic majority put that through over the Republican objection.

Then we had the February 2 meeting at which Mr. Altman refused to recuse himself, and what happened after that? Jay Stephens was hired as part of the Pillsbury law firm to look into this. So we have examined every single example, and we had the allegation that a particular referral was accompanied by another document that was based on a misinterpretation of what Mr. Dudine has said.

Every specific allegation that there was any interference on the part of the White House or the Treasury Department with the investigation has been thoroughly investigated and refuted. That was considered to be a very important issue, and we ought to be clear now at the end of this day that that doesn't exist.

And if the minority still thinks that there is something left over, they have rule 11 and maybe they have got some new witnesses, so let them not claim that they were kept from putting anything on. They have a rule 11 right if they want to still try and prove it, but after so far, 5 days of hearings, there has not been a single factual establishment of any interference and quite to the contrary, a statute of limitations that expired under George Bush was reopened. Jay Stephens was hired and the criminal referral was made.

The CHAIRMAN. The time of the gentleman has expired.

The Chair will recognize Mr. Leach for a final statement as requested at the outset of this hearing.

Mr. LEACH. I thank the Chairman. First, I would like to ask unanimous consent to put a very lengthy statement in the record to replace the shorter one.

The CHAIRMAN. Hearing no objection, it is so ordered.

[The closing statement of Mr. James A. Leach can be found in the appendix.]

Mr. LEACH. Let me just begin with some comments of the gentleman from North Carolina. He suggested that I used in my August 3 statement the words "obstruction of justice." Actually, I used the term referrals may not effectively have been "blocked."

The reason I just used the word "blocked" is that it was not intended to carry a legal ramification. It was intended to imply that there might be some policy differences.

What this panel has indicated today is that in an unprecedented way, the referrals were brought to Washington, and that a delay occurred, not a large delay. But in that delay what developed was a very substantive critique of the referrals. That is a policy effort to change the referrals.

When you have a policy position and someone develops a critique, that's an effort to change the policy. That is common sense. This panel has acknowledged that what was developed during this period of delay was a critique, not a supportive document.

So when I say an effort was made to block, that's entirely what I have in mind. I would like to stress to all here that I also said it's difficult to assess at what levels efforts were precipitated. But

it is clear that they were coordinated in such a way as to be reported to the top of the RTC. That is a valid observation. In fact, I could have gone further. It was reported to the top of the U.S. Government.

Now, let me just stress that with these hearings, the first phase of our investigation is now completed. For those who think that this is much ado about a small part of a scandal which might be modest in proportions, I think they're not altogether wrong. Nevertheless, the issues at stake at least philosophically, are not trivial.

All the minority asked for last fall was a hearing on Whitewater. What the minority got was an exhaustive hearing on a process issue related to development of criminal referrals, not a hearing on the substance of the reason a particular savings and loan called Madison Guaranty failed in Little Rock, Arkansas.

Here I would stress that these hearings are held in reverse chronological and substantive order. This is the case partly because this committee has not held, as required by law, statutory oversight hearings over the RTC, where the raising of Madison would be a reasonable thing to be considered.

What the minority has attempted to underscore is that in a country of law, it's important to assure that accountability applies to all and that oaths of office relate to obligations undertaken to defend the Constitution, not the political fortunes of any individual.

As to this group, I am not impugning any of you. But I do apply this to some other people that have appeared before this committee.

In America, no individual is privileged before the law. That is why the minority objects to the White House view that the President is entitled to a heads-up tipoff of a criminal probe, and why the minority objects to the Treasury view that such a heads-up tipoff is justified on the basis of an imminent or anticipated press leak.

The implications of insider advantage being given to any American, even the President, is precisely why it's unethical for Treasury officials to brief the White House, and precisely why once informed, the White House counsel's office was ethically obligated not to brief or precipitate the briefing of the President.

I, personally, suspect that all of you on this panel would agree with that. These notifications gave a single American a privileged position under the law and represented clear violations of then existing ethical rules.

More specifically, 3 CFR 100.735, which stipulates that a White House employee shall avoid an action which might result in or create the appearance of giving preferential treatment to any person, losing complete independence or impartiality, making a government decision outside official channels, or affecting adversely the confidence of the public in the integrity of the government.

As for candor, individuals who testified before us failed to see, as the Office of Government Ethics report makes clear, that the RTC is an independent institution, not the Treasury Department's finger bowl or the White House's blind cup. One of the lessons that Congress should take from these hearings is that independent agencies should never again be run on a prolonged basis by political appointees to other departments.

But the primary lesson for all of us relates to public ethics. There is no greater ethical issue than truth saying. For without it, there is no trust. And without trust, we cannot have credible governance. Candor would appear, clear and simple, to have been a casualty of this process. Because when two intelligent people give opposite representations, one or the other is not telling the truth. For instance, a nonpanelist, but one whom all of you know, a man named Glion Curtis, testified before the Treasury inspector general that early in October he briefed Jean Hanson on the critique of the referrals, and he said that he gave her, gave her a copy and she copied it. What happened to that critique, nobody knows.

For instance again, Mr. Altman and Ms. Hanson, as we know, have very different contributions and recollections of major events. Mr. Altman does not remember directing or suggesting she brief Mr. Nussbaum. Ms. Hanson does. Mr. Altman doesn't recall the February 1 meeting with Secretary Bentsen, at which he allegedly blessed their White House briefing. Ms. Hanson does. Mr. Altman doesn't recall hearing from Ms. Hanson about the first of her fall meetings. Her September 30, 1993 memo, strongly suggests she contacted Altman. Mr. Altman has no recollection of Bill Roelle briefing him as to the first criminal referral shortly after he took office as Interim CEO. Putting aside Mr. Altman's testimony before the Senate, which our colleagues in the Senate have already closely parsed, it surely appears that this lack of recollection strains credulity.

The poor recollections and cumulative lack of judgment of these officials, like those in the White House, raise serious questions about their trustworthiness to handle some of the most sensitive matters of government. When trustworthiness erodes too far, credible governance is no longer possible.

Thus, even though Special Counsel Fiske found that no criminal law had been broken, and even though Mr. Cutler found that no ethical rule had been broken, it would nonetheless appear that the sacred trust between those governed and those who would govern, who would be governed, might very well have been broken. And that's what this part of these hearings are all about.

I would stress to all of you on this panel, I sympathize with your dilemma. I don't think any of you acted particularly inappropriately, although all of you have gone back and recognized that there are some very sensitive issues that have been at stake. But I cannot say the same thing about those that are your superiors. And it is on that basis that I have expressed such great concern on this whole element of decisionmaking that we've had before us.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

The Chair wouldn't make any attempt whatsoever to rebut some of the statements that have been made by members on the minority side that would be intended as critical of my chairmanship. Also, that comparisons are odious when you start comparing a body consisting of 100 Members with a body that consists of 435 Members, and a committee that consists of half of the other body plus 1, 51 members, and trying to compare the time constraints that must be necessary in accordance with time-honored rules.

At the beginning of the hearings, when it looked like they were not going to take the turn that minority had so hoped for, everybody on that side and some on the outside that should know better were saying, what a terrible thing, only 5 minutes. The fact is that this is a rule of the House and has been a rule of the House since 1847. But it wasn't really brought down to the practical level on the committee basis until 1963 with my predecessor chairman, the great Wright Patman. The reason for it was to enable every member to have 5 minutes.

Let me assure you, I was here before that, and if a chairman looked beyond the first three chairs, why, that was rare. And so the idea of the 5-minute rule was to allow an imperious chairman to kind of respect the rights of the members to at least be heard for 5 minutes.

So I go through that explanation because it would seem that I was the one that had originated it. I wish I could be given credit for 5 minutes. In fact, if I could be given credit, I'd make it 15 minutes.

The other thing is that I was hopeful that our ranking minority member would have really complied with his statement that he made in our opening hearing with Mr. Cutler. And I'm going to quote. "The minority has no desire to tarnish anyone's reputation, nor suggest or imply criminal conduct." And that's the word, "imply criminal conduct. This is not a trial. These hearings are about public ethics, pure and simple," end of quote.

That, of course, echos what I've said, that this is not a judicial body, this is not a prosecutorial body. Nevertheless, the Chair has been subjected to hearing more than several on the minority say, "Well, this may not be a judicial hearing, but . . ."

So I just wanted to say at least at the moment Mr. Leach made that remark in the course of the hearings last week on the 26th, I felt very elated, and regret that in effect it hasn't been consistent.

Now, these hearings have been difficult. And today's hearings, I can't let them end without observing the role of RTC and these career public servants that have seen fit to enlist themselves in carrying out the congressional intent that's manifest in the basic law of 1989 as it was intended for RTC. I had more than a casual hand in that. The Congress and this committee did, in less than 8 months, what it had taken three Congresses and four different basic acts in the 1930's to do. We also revised the original initiative submitted by President Bush on February 8, 1989, in which RTC was to consist of three members of the Board: The Secretary of the Treasury, the Chairman of the Federal Reserve Board, and the Attorney General.

And so I led the fight, and fortunately we were able to win it, and with the help at the time we got to conference with Mr. Riegle, to include the Secretary of HUD for the simple reason that we were going to be facing what this country had never faced before, and hope never will, over 400 billion dollars' worth of real estate ownerships of a mixed bag from single-family residences to very complicated business and commercial real estate dealings and involvements and programs. I thought that we would have a lot more dire things happen than has actually been the case.

So I have not been one of those, even though I was under pressure, following August 9, 1989, that constantly jumped on RTC. As a matter of fact, I said that I had to compliment the administration, and it certainly was a Republican administration, and those attempting to carry out the functions of RTC.

I also realized that we had a compromise in some very important aspects, such as Mr. Seidman, who as early as February 1989, had entered into an arrangement with the Home Loan Bank Board to carry out the resolution of S&Ls through a contractual arrangement. But then when we reached the point of eliminating the Home Loan Bank Board and creating OTS and RTC, we still had FDIC, and Mr. Seidman carrying out the resolutions.

My original objection to that was based that FDIC had no track experience and that they would have to go out and hire, as they had to, hundreds of employees. For they had had no experience in closing banks to amount to much, as we reached 1989. And so when OTS and the oversight board and the policymaking board was created, Mr. Seidman was not made a part of that policymaking board. He decried it when we were forging the legislation. And I was leading the fight.

When we got to conference, what was my surprise to find that Senator Garn showed a letter that Mr. Seidman had written saying, no, it was all right, he would cease raising objections. And it undercut my position.

Mr. Seidman then called me privately and explained the reason he had backtracked was because he was ordered to do so by the White House. So we went along and it wasn't until the last Congress that we were able to reform and then provide what was called a czar.

And the first one was Mr. Casey. And Mr. Casey came from the highest levels of private executive activity. He had been a most successful head of American Airlines. And yet, look at what happened to him.

So I want to point out, and the record ought to indicate, that I became interested in finding out what other entity in the world would have a similarity here. And I found that Germany, in 1990, and by the time they merged because they never really have had reunification, had the big question of privatization of the East Germany properties. They just closed out what they call their Truhan DanStault, which is a trust like RTC. And the first director of that was a woman.

She hadn't been holding that office 9 months or 6 months before there were scandals and eventually she was replaced. But the reason was that they just closed out, this was announced less than 10, 12 days ago, the German Truhan DanStault was closed.

But what did they have by comparison with us? Less than one-tenth. And certainly a more homogeneous social—their biggest problem was in trying to redeem the claims of the Jewish population that had been forced out of Germany and still had residual property rights. And they managed to meet that fairly well.

The biggest scandal involved an individual who had been a part of the police sector of the East German so-called Democratic Republic or whatever they called it. And he, in turn, had other involvements, as we found out later as we went into BNL and BCCI

scandals. And it was discovered and members of the Bundestag, that I met with, got up and denounced him and the losses to the Treasury of Germany as a result.

And so they closed out, but they had less than one-tenth of—much less than one-tenth of our involvement. So I think that at this time, and after we went through the agonies of trying to fund in order that the entity could carry out the basic purpose the Congress had set out for it, we should allow that by far and by large the administrators have done a very good job, in my opinion. And when I had more members on the minority insisting that I call investigatory hearings to denounce RTC or to speak out, I didn't. I had members from the majority. And we had a very ably lead task force on RTC, by Chairman Vento, and he had a very, very studied report.

But I never could join that chorus, because I had really believed in the beginning, in fact, my words were that I'd be surprised if as a result of all of these interests we wouldn't end up not with 10 but with about 1,000 Donald Trumps. And I am glad I was proved wrong. And that, essentially, the point we reached is where the most difficult portion or segments of those properties are still to be disposed of.

These hearings have been difficult. I, however, want to thank the members for their cooperation.

And I'd like to point out to Mr. Leach that, I don't know that he spelled it out, and I think I should, that we're not and have not operated or conducted these hearings under the committee's agenda. But rather, one imposed by the full House, by a House-passed resolution that was passed overwhelmingly and was couched in such terms that it took the bipartisan leadership to finesse and refine the scope.

We have attempted to faithfully respect that scope in order not to jeopardize the ongoing investigations by the special counsel.

Now, I do think that we ought to review some of the claims that we've had to face since the beginning of the year. We've had lurid, absolutely groundless claims that the late Vincent Foster was murdered. In fact, you have really a shameful example of some charges that are still being made that President Clinton somehow had something to do with the death, in fact, accusing him of murder, to be plain and frank.

In fact, I must say with regret, that even Mr. Leach hinted darkly at a possibly murderous plot, saying that he wasn't surprised that the special counsel had reopened the investigation of the suicide of Vince Foster.

Mr. LEACH. Will the gentleman yield on that?

The CHAIRMAN. Yes, sir, I will be glad to yield.

Mr. LEACH. You're taking from a statement on the House floor this spring about the fact that a reinvestigation was warranted. In my opening statement to this committee, I very, very carefully suggested that I do not object to the special counsel's conclusions on this subject. I did my best to allay what might be considered impressions—that this was anything except a suicide.

And I will stake my reputation on my view that regarding that part of the Fiske Report, which the Chair did not allow us to review, I think it is just wrong to think Mr. Foster's death was any-

thing other than a suicide. I also want to stress, as I did in my opening statement, that I think Mr. Foster was a decent man, doing noble public service. This is an issue that is not one that I have ever as a Member of this House desired to take up.

I'm more interested in the economic aspects and the public ethics dimension of the so-called Whitewater affair. But I want to concur with the Chair that there is no evidence that this was anything other than a suicide.

The CHAIRMAN. The gentleman is right. I was alluding to the statement made on the House floor.

But I also accept the gentleman's review of his own stated words as we went into these hearings. However, a goodly number of our colleagues on the House and on the minority side still allude to the fact that there were more than circumstances attached to the death, other than suicide.

Also there was and there still continues to be the charges that Mr. Foster killed himself because he had some guilty knowledge about Whitewater. Now, as I said and as Mr. Leach just stated, the independent counsel interviewed dozens of persons to check that possibility. And his conclusion was this: Mr. Foster did not kill himself because he felt guilty about Whitewater.

I must also add that the Senate in its wisdom decided to go into that, and actually verified the reason why, and on our side we voted that since that part had been completely reported to by the special counsel, we were not equipped, as I think the Senate hearing showed, to go into the determination of forensic medicine and the like. And that's what that was calling for.

Third and again, the claims that the investigation into Madison Guaranty's failure was frustrated. This, clearly, was not the case. And again, I'm going to place in the record at this point, going back to last autumn, the written correspondence between Mr. Leach and myself and also others with respect to the reasons why I was attempting to find a legislative purpose for the Banking Committee to have jurisdiction.

[The information referred to can be found in the appendix.]

And I think that those written words would be the best expression to understand. But that could hardly be an attempt to frustrate any investigation of Madison. My position is simple.

When we had the hearings in 1989, and then the subsequent one in 1990, the followthrough hearings, it was to seek and we did obtain legislation with respect to outside directors and the like, and therefore in the absence of evidence indicating that the person suspected, whether it was the President or his wife, and even before the President became President, to indicate that either he or his wife were ever bondholders, stockholders, directors, outside or inside, or in any way had any managerial capacity with the defunct S&L, I could see that with the laws we passed in 1989, 1990, and 1991, would take care of any infraction.

But that was a matter not for this committee, but for any committee that has oversight of the Justice Department and the enforcement of those laws.

Mr. FRANK. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. FRANK. I just wondered, I think it's important to get this in the record, but the witnesses have been here since 9:30 a.m. I assume it's OK if they—we don't need the witnesses for this. I think we should make the record.

The CHAIRMAN. Well, I wanted them to hear my words of praise for RTC. You wouldn't want me to dismiss them.

Mr. FRANK. No, they heard that. But seriously, I think some of them have been here for sort of almost 6 hours.

The CHAIRMAN. Well, the gentleman is correct.

Mr. FRANK. I think we should have this in the record, but——

The CHAIRMAN. The gentleman is correct. And I was beginning to notice a look of tiredness on the witnesses, which was understandable, and they have gone through a lunch period. So I was going to ask that the balance of my written statement be placed in the record.

Mr. FRANK. I think—I think you ought to go ahead with the statement, if you wish, but the witnesses we can——

The CHAIRMAN. No.

Mr. ROELLE. Mr. Chairman.

The CHAIRMAN. Yes, Mr. Roelle.

Mr. ROELLE. On behalf of the almost 10,000 RTC employees that have served in the past and are currently serving, we really do appreciate your words for the RTC. We don't often hear those words. And thank you very much.

The CHAIRMAN. Well, sir, I will express them sincerely. I have placed them in the record in Special Orders that I have made. But I appreciate your expression.

Let me say that with that, the committee stands adjourned.

[Whereupon, at 3:06 p.m., the hearing was adjourned.]

APPENDIX

August 5, 1994

Opening Statement
The Honorable Henry B. Gonzalez
Chairman, Committee on Banking, Finance and Urban Affairs
August 5, 1994

Today is our fifth day of hearings on the completed phase of the Independent Counsel's investigation into the so-called Whitewater affair.

Our witnesses today are from the Resolution Trust Corporation, and they will address what they know of contacts between the Treasury, White House and the RTC regarding the so-called Whitewater affair.

A major claim has been that Madison Guaranty Savings and Loan got some kind of special treatment -- namely, that the White House tried to slow down or thwart civil and criminal investigations. The fact is, nothing could be further from the truth. The RTC devoted more energy and resources to investigating Madison than any other institution; banks with billion dollar losses were not scrutinized as much as Madison.

The multiple investigations and this Committee's hearings have shown one Republican charge after another to be baseless, exaggerated or distorted.

Witness after witness show that none of the Treasury-White House-RTC contacts was illegal.

None of these contacts was unethical, according to the Office of Government Ethics and according to Mr. Cutler's separate investigation. Witness after witness, document after document, show that nothing was done wrong by the Administration.

Was there regulatory misconduct? Only if fervent zeal to investigate Madison is misconduct.

Was there an effort to thwart any investigation? Today's witnesses will address that question.

Our witnesses today will be sworn in, as has been our practice in these hearings.

I want to point out to each of you that you are not accused of any wrongdoing, and this Committee is not a judicial body. No one should infer any negative idea to the fact that you are being asked to take an oath; it is simply the practice adopted by the Committee for its witnesses in these proceedings.

Our hearing is prescribed by House Resolution 394, and will be conducted in keeping with the resolution and consistent with the bipartisan leadership agreement of June 17.

TESTIMONY

OF

JOHN E. RYAN

DEPUTY AND ACTING CHIEF EXECUTIVE OFFICER

OF THE

RESOLUTION TRUST CORPORATION

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

9:30 A.M.

AUGUST 5, 1994

ROOM 2129 RAYBURN HOUSE OFFICE BUILDING

Mr. Chairman, members of the Committee, my name is John E. "Jack" Ryan. I am Deputy and Acting CEO of the RTC. I became Deputy CEO on January 4 of this year and assumed the role of Acting CEO on March 30, 1994.

I am a career regulator with over thirty years experience as a senior regulatory official with the Federal Reserve Board and more recently with the Office of Thrift Supervision where I have served as the Director of the Southeast Region of the Office of Thrift Supervision since October, 1989. Over the course of my career, I have helped deal with and manage many of the financial crises that have occurred in the U.S. during the past twenty years including Continental Illinois, Penn Square, the foreign debt problem, and the savings and loan crisis to name a few.

Last December, I agreed to serve temporarily as Deputy CEO of the RTC until a permanent CEO could be nominated and confirmed. When I agreed to the temporary assignment, it was my understanding that the process of selecting a permanent CEO was well underway and I anticipated my tenure would be limited to a matter of a few weeks. Obviously, that expectation turned out to be incorrect and my job has expanded to Acting CEO. As of this moment, I have no idea what the current status of the selection of a permanent CEO is nor do I know how much longer I will have this responsibility. As I have repeatedly told the RTC staff, I will continue to discharge my responsibilities, including those related to Madison Guaranty, as though I was the permanent CEO and to the best of my ability.

The RTC is fully cooperating with this Committee in the conduct of these hearings. The RTC has provided the information and data requested by this Committee and has made staff available for depositions and testimony. The RTC is also cooperating fully with Special Counsel Fiske, the Senate Banking Committee, the Treasury Office of Inspector General, the RTC Office of Inspector General, the General Accounting Office and the Office of Government Ethics in their investigations of various aspects of this matter.

During my interview before counsel for this Committee and before Special Counsel Fiske, I have been asked a number of questions most of which fell into the following categories: (1) how I came to be selected for this job; (2) my authority as Deputy CEO (which was my position when most of the events that are the subject of this hearing occurred); (3) my relationship with Mr. Altman and the Administration; (4) my knowledge of and/or participation in the Treasury/White House contacts; (5) whether I was ever instructed or pressured by Treasury or the White House to influence the investigation or the outcome of the investigation into Madison Guaranty Savings and Loan; and (6) whether I have done anything to impede or change the results of the RTC's investigation; e.g., tell RTC staff that I preferred a finding that Whitewater did not cause a loss to Madison.

I will now cover for the record, my answers to these questions.

I received a phone call in December 1993, while I was in Atlanta with the OTS, from Frank Newman, Undersecretary of the Treasury whom I had known professionally when he was

with Bank of America and I was at the Federal Reserve. Mr. Newman's call came not long after the nomination of Stanley Tate as CEO had been withdrawn, and he asked if I would consider a temporary assignment at the RTC. I traveled to Washington for two interviews, one with Mr. Altman and one with Secretary Bentsen. These interviews were the first time I had met either Mr. Altman or Secretary Bentsen. I don't believe the subject of Madison Guaranty came up during these interviews as most of the discussions dealt with morale problems at the RTC and what could be done about them. At those interviews I agreed to serve as Deputy CEO of the RTC.

The position of Deputy Chief Executive Officer is a statutory one enacted in the RTC Completion Act. There was no Deputy CEO before me and, as a result, the existing RTC organizational structure and delegations of authority did not provide for one when I arrived. In fact, some of the senior officials of the Corporation, by law, reported directly to the CEO. The lack of clear authority in the RTC's corporate structure, together with the temporary nature of my appointment and the fact that the Deputy Secretary of Treasury remained CEO, created a very challenging environment in which to assume operating responsibility. Obviously, much of my time in the early days was spent trying to gain understanding and some control over an organization that is surprisingly decentralized with functional units operating independently of each other. The precise decision-making responsibility is not only difficult to explain under such circumstances, but my observation is that it was often not clear to those working at the RTC as well.

During my tenure as Deputy CEO I reported directly to Mr. Altman, who was Interim CEO. It should be noted that Mr. Altman essentially withdrew from active RTC management following the February 24, 1994 Senate Banking Committee's RTC Semiannual Oversight Board hearing, some seven weeks after my arrival. During the period preceding the hearing, regular weekly meetings were scheduled to discuss RTC matters, but due to Mr. Altman's busy schedule, many of the meetings never took place. The subject of Madison Guaranty came up three or four times during these meetings. The discussions were procedural and I am quite certain that the substance of allegations was not discussed. Let me note that Mr. Altman's instructions to me and other RTC staff always was to deal with Madison Guaranty the same as the RTC would deal with any other similar institution.

Regarding the meetings and/or contacts between Treasury and the White House, I first learned of the February 2 White House meeting in Mr. Altman's office during a question and answer session being held to prepare for the February 24 hearing before the Senate Banking Committee. I had no prior knowledge of this meeting and was unaware of other contacts until I read about them in the press.

As the Committee is aware, there have been press reports that a Kansas City investigator was told by a visiting Washington RTC lawyer that I would like to show that Whitewater did not cause a loss to Madison because it would get us "off the hook". I have never instructed anyone to do anything but find the truth and work to see if the RTC had a cost effective civil case, as is our regular procedure.

In the final analysis, any judgment in this regard should be based on what is actually being done and on the results of the investigation that is presently underway. During my tenure the RTC has taken the following steps: first, the reopening of the Madison investigation in light of the extension of the statute of limitations and additional information; second, the request that the Office of Inspector General review the RTC generated report on the Rose Law Firm as well as the billings of that firm with respect to Madison; third, the retention by the Legal Division in early February 1994 of Pillsbury, Madison and Sutro to serve as outside counsel to help with the investigation; and fourth, the full cooperation the RTC has given to Special Counsel Robert Fiske. When the RTC has completed its investigation and taken appropriate action, a full report on this matter will be made to the Congress. We fully expect to be judged by our actions at that time.

Finally, I wish to state that no one at the Department of Treasury has exerted any pressure or instructed me to do anything to influence the RTC's investigation of Madison Guaranty, and I have never talked to anyone at the White House about Madison Guaranty, or anything else for that matter.

I will be happy to answer any questions you might have.

TESTIMONY

OF

ELLEN B. KULKA

GENERAL COUNSEL

OF THE

RESOLUTION TRUST CORPORATION

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

9:30 A.M.

AUGUST 5, 1994

ROOM 2129 RAYBURN HOUSE OFFICE BUILDING

Mr. Chairman and Members of the Committee:

My name is Ellen Kulka. I have been the General Counsel of the Resolution Trust Corporation since January 17, 1994. Before that, from February 1991 to January 1994, I was the Regional Counsel for the Northeast Region of the Office of Thrift Supervision in New Jersey. My first government employment was in this capacity. Other than this period of government service and a few years as Assistant Professor at the Graduate School of Management at Rutgers University, my entire professional career had been in the private sector, where I practiced corporate, securities, and banking law.

I have been frequently asked how I could possibly have accepted the job I now hold because of the widespread perception that the RTC operates in a difficult environment and might even be characterized as having had a history as a very troubled agency in which anyone associated with it is subject to disparagement or worse. And it is true that many urged me not to accept the position because of its thankless, grueling nature.

I would like to share with you my reasons for doing so, because they are relevant to my perception of my responsibilities. I was first interviewed for the position of General Counsel in the Spring of 1993, one year after the death of my husband following a four year illness. In my more than thirty years of marriage it had been he who had encouraged me to become a lawyer and to take on a full time career — all this when it was an exception to the acceptable role of a woman with small children. During all those years I had gladly limited

my practice to the New Jersey area because of the needs of my family. In the Spring and late Fall of 1993, as I weighed whether I should first seek and then accept a position with the RTC, it was my children, who are now young adults, who were the strongest advocates for my doing so.

So in fact the overriding factor in my coming to Washington was personal — the desire to start anew with an absorbing and challenging set of responsibilities. This is one circumstance where getting your wish carries with it more than could be anticipated.

From a professional standpoint, I was in fact urged by a number of colleagues and acquaintances seriously to consider taking the job, because they felt that I would bring to it strengths in a number of areas which were important to the task — my love of dealing with novel and difficult problems, my approach to problem solving which involved integration of overriding policy or strategic issues with an understanding of pragmatic concerns and, finally, my interest in management as well as in the practice of law.

I understood that I was accepting a position with a short life because the RTC will sunset on December 31, 1995 — and thought that this was a plus since it would be hard to make a commitment to such a stressful and demanding position for a longer period. Furthermore, since my personal goals did not involve seeking public office or remaining in Washington permanently (and I have in fact maintained my residence in New Jersey) I could come to the position without worrying what this job might lead to. Therefore, I would be able to

maintain my independence. I saw the job as one similar to that which a trustee in bankruptcy performs: managing a complex set of operational (in my case legal) issues while working towards the restructuring of a massive organization as it winds up its affairs.

In the course of seeking advice from my colleagues about what was most important to weigh in coming to a final decision about accepting the position, one of them stressed the importance of working with a CEO whom you could respect and with whom you shared a common vision of the agency's mission. This seemed to be the best advice I had received, so I asked who would be the permanent CEO of the RTC. I was told that a new CEO was expected to be nominated shortly but his or her identity could not be shared with me at that time. However, a Deputy CEO for the RTC who would have day to day operating responsibility was about to be appointed immediately, to fill the new position created by the Completion Act which became effective on December 17, 1993. His name was John E. Ryan. While I had never worked with Jack Ryan, I had met him while I was at the OTS where he was Regional Director for the Southeast Region, based in Atlanta. More importantly, I knew him by reputation to be strong, smart, and independent and of enormous personal integrity. He had already had a long, distinguished career in bank and thrift regulation. Very pleased, I accepted the position.

The RTC Legal Division has a big job. Over 80 percent of the agency's lawyers provide legal services in connection with the operation and winding up of over 700 receiverships and conservatorships and the sale of hundreds of billions of dollars of assets. Attorneys provide

legal expertise in contracting, structuring and selling real estate assets and securities portfolios, and the myriad of legal issues that any large corporation encounters.

When I came to the RTC, I found a Legal Division that consisted of a number of independent practice areas that were geographically dispersed, providing legal services to various institutional clients within the RTC. I saw that one of my principal objectives was to develop a management structure and philosophy that would integrate the practice areas, so that each area of the Legal Division would work with a better understanding of, and regard for, the other areas and the overall goals of the agency.

I also understood that the legal work of the RTC included managing a significant number of professional liability matters in which the agency pursues claims against directors, officers, lawyers, accountants, and others who had injured the savings and loans for which the RTC had been appointed receiver or conservator. To date, these efforts have resulted in collections of almost two billion dollars. I knew that the agency had been criticized, on one hand, for abusing its power and bringing the full weight of the federal government to bear indiscriminately on those who rendered services to the s & l's and, on the other hand, for failing to pursue zealously the wrongdoers who have destroyed a large part of an industry and cost the American taxpayer so much.

I believed and continue to believe that the overriding goal is to pursue in a cost-effective, tenacious, and fair manner the best cases that can be brought against those whose behavior

was egregious. The RTC must bring those suits which are cost effective; it is not charged with punishing wrongdoers or prohibiting them from participating in the banking industry. That is the responsibility of other government agencies.

Overwhelmingly, those I have worked with closely in the Legal Division since I have come on board have exhibited extraordinary commitment, integrity, and talent. Preserving the Legal Division's ability to maintain the staff it needs to do its remaining work and to keep morale high is one of the most important and challenging tasks I face.

Thank you.

Testimony of April A. Breslaw
Counsel
RTC Professional Liability Section

Before the U.S. House of Representationes
Committee on Banking, Finance, and Urban Affairs

INTRODUCTORY REMARKS:

Good morning Mr. Chairman and members of the Committee.

I am not a political appointee. I have never been a political appointee. I have never worked on a political campaign.

Instead, I joined the FDIC Dallas office in January 1986 as a Regional Attorney. Since then, I have received four merit awards. I have also been promoted five times. I am now a Counsel (Grade 15) detailed to the RTC Professional Liability Section. As a permanent employee of the FDIC, I will return to that agency when the RTC completes its mission in 1995.

In my current position, I am responsible for directing and implementing some of the complex litigation which has arisen as the RTC works to resolve the savings and loan crisis. Virtually all of my work pertains to the investigation and litigation of civil claims. I do not conduct criminal investigations or prepare criminal referrals. Until I resigned on March 25, 1994, I was a member of the team investigating potential civil claims which may stem from the failure of Madison Guaranty Savings and Loan.

Because I want this Committee to understand that I am sensitive to ethical issues, I want to note that I formally recused myself from matters which pertain to the Rose Law Firm or Seth Ward, the father-in-law of former Associate Attorney General

Webster Hubble, on January 27, 1994. While I was a member of the Madison team, I did not receive assignments which pertained to these matters.

I believe that I have been invited to testify before this Committee because of a conversation between RTC criminal investigator Laura Jean Lewis and me which occurred on February 2, 1994. This Committee should understand that no one informed me that this conversation was being recorded at the time that it occurred. Such recording is illegal in many states. Moreover, Ms. Lewis went out of her way to make the conversation appear casual. For example, she encouraged me to sit on the sofa in her office and did not take notes of our discussion. I regarded the conversation as a cursory and unimportant chat at the end of a long day.

I have no recollection of saying that anyone hoped for a particular outcome for the civil investigation. I would emphasize that even Ms. Lewis has admitted that I repeatedly assured her that everyone was seeking <u>honest</u> answers.

Moreover, it is my understanding that criminal investigator Lewis has never been a member of the team investigating Madison <u>civil</u> claims. Ms. Lewis's distance from civil matters is important. Fundamentally, she alleges that my conversation with her had the potential for influencing the outcome of the civil investigation. This is simply incorrect. Ms. Lewis never had any prospect of playing a significant role in conducting the <u>civil</u> investigation. Instead, her involvement was generally limited to gathering records as others requested them.

I gave my conversation with Ms. Lewis no further thought until almost two months later when Congressman Leach referred to it in his Congressional statement of March 24, 1994. I was surprised by the concerns he professed because I knew that I had not behaved in an unethical manner. Further, I was puzzled by his characterization of the conversation because it appeared to be based only on a page of notes allegedly taken by Ms. Lewis. However, I knew that Ms. Lewis had not taken notes during our conversation. I was therefore skeptical of Congressman Leach's description of the meeting with Ms. Lewis. Because I did not believe that I had made the remarks which he attributed to me, I denied making them in response to questions asked by some members of the press. I still have no recollection of making them.

Congressman Leach did not seek an explanation from me or, to the best of my knowledge, from the RTC before making his allegations public. I am not aware that he ever made a referral to any governmental body equipped to investigate such issues. It is curious that despite his professed concern about ethical matters, he did not take steps likely to produce answers to his questions. Any fair-minded person who sought to discover the truth would have made some effort to ascertain my version of events before publicly attacking me from the floor of the House of Representatives.

Although I remain disappointed that Congressman Leach did not make this effort six months ago, I sincerely thank this Committee for doing so today.

TESTIMONY:

ABSENCE OF POLITICAL INVOLVEMENT

I am not a political appointee. I have never been a political appointee. I have never worked on a political campaign.

PROFESSIONAL BACKGROUND

I joined the FDIC's Dallas office in January 1986 as a Regional Attorney. Since then, I have received four merit awards. I have also been promoted five times. I am now a Counsel (Grade 15) detailed to the RTC Professional Liability Section ("PLS"). As a permanent employee of the FDIC, I will return to that agency when the RTC completes its mission in 1995.

In my current position, I am responsible for directing and implementing some of the complex litigation which has arisen as the RTC works to resolve the savings and loan crisis. Virtually all of my work pertains to the investigation and litigation of civil claims. I do not conduct criminal investigations or prepare criminal referrals.

Instead, I advise RTC business analysts and outside consultants as they investigate the civil liability of directors, officers, attorneys, accountants and bonding companies for loss suffered by failed savings associations. I analyze investigative reports, develop litigation recommendations, and pursue civil liability actions against professionals and their liability carriers to establish insurance coverage. I also resolve intricate

legal issues to negotiate settlement agreements, including a global settlement of all RTC claims with Arthur Andersen & Co. in 1993.

ABSENCE OF WHITE HOUSE/TREASURY DEPARTMENT CONTACTS

It is my understanding that the scope of these hearings is limited to the propriety of contacts between the Treasury Department and the White House regarding Madison Guaranty Savings and Loan ("Madison"). I have not had any contact with members of the Treasury Department or the White House regarding Madison. I have no personal knowledge of any such contacts. My knowledge of these matters is limited to what has been reported in the press. All of my contacts pertaining to Madison were with other RTC employees.

RECUSAL

I believe that matters which pertain to the Rose Law Firm are generally outside the scope of these proceedings. However, because I want this Committee to understand that I am sensitive to ethical issues, I want to note that I formally recused myself from matters which pertain to the Rose Law Firm or Seth Ward, the father-in-law of former Associate Attorney General Webster Hubble, on January 27, 1994. While I was a member of the team investigating Madison civil claims, I did not receive assignments which pertained to these matters.

CONTACTS WITH OTHER MEMBERS OF THE RTC

RTC General Counsel Kulka and Deputy Executive Officer Ryan joined the RTC in mid-January 1994. I did not know them before they joined the RTC. As described above, I am a member of the RTC Professional Liability Section. I have never worked directly for either Ms. Kulka or Mr. Ryan.

I met Mr. Ryan for the first time in late February or early March 1994, when I presented a recommendation to settle a lawsuit completely unrelated to Madison. I had never spoken to him before that time. In other words, I had never spoken to Mr. Ryan prior to my visit to the Kansas City Office on February 2, 1994.

Ms. Kulka introduced herself to the entire RTC Legal Division at an assembly held in our auditorium near the end of January 1994. I listened to her remarks as a member of the audience. I then stood in a reception line to greet her. This was the first time that I met her. To the best of my recollection, my only other contact with her prior to February 2, 1994 occurred when I fielded a call that she made to my section to request copies of documents. This call was not specifically directed to me. I received it because I happened to be working late that evening.

Neither Mr. Ryan nor Ms. Kulka instructed me to carry any message to Kansas City when I traveled there on February 2, 1994. I was sent on the trip by Mark Gabrellian, the PLS Senior Counsel who has supervised the Madison civil investigation. Mr. Gabrellian did not instruct me to carry any message to Kansas City.

By February 2, 1994, the RTC criminal referrals were in the

hands of Independent Counsel Fiske. The only active Madison inquiry in the RTC's hands was the civil investigation. Until I resigned on March 25, 1994, I was a member of the team investigating these potential civil claims. The purpose of my trip was to gather information relevant to several aspects of the civil investigation.

Speaking with Laura Jean Lewis was not the main objective. It is my understanding that Ms. Lewis has never been a member of the team investigating Madison civil claims.[1] To the best of my knowledge, Ms. Lewis played no role in organizing, staffing, or supervising the Madison civil investigation. To the best of my knowledge, her involvement has generally been limited to record retrieval. When the investigation is complete, PLS attorneys and outside counsel Pillsbury, Madison, and Sutro will draft a recommendation for consideration by Ms. Kulka and Mr. Ryan. Consistent with routine RTC procedure, Ms. Lewis will not participate. In over eight years of employment with the FDIC and RTC, I can think of no instance in which an RTC criminal investigator such as Ms. Lewis has been permitted to have a pivotal effect on the outcome of a civil investigation.[2] To the best of my knowledge, it has not happened before and it is not happening here.

Ms. Lewis's distance from civil matters is important.

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[1] Although I was not aware of it on February 2, 1994, it is my current understanding that Ms. Lewis had been removed from the criminal investigation in 1993. To the best of my knowledge, she was not a member of any Madison team on February 2, 1994.

[2] Of course, concerns expressed by the Department of Justice in connection with criminal matters are given serious attention.

Fundamentally, she alleges that my conversation with her had the potential for influencing the outcome of the civil investigation. This is simply incorrect. Ms. Lewis never had any prospect of playing a significant role in conducting the civil investigation. As noted above, her involvement was generally limited to gathering records as others requested them.

To the best of my recollection, the events of February 2, 1994 unfolded as follows. I left Washington DC on an early morning flight, and arrived Kansas City at roughly 10:30 am. It was the first and only time that I have visited the RTC Kansas office of Investigations. It was the first and only time that I have met Ms. Lewis. To the best of my recollection, it was the first and only time that I have met her supervisor, Richard Iorio.

I spent most of the day reviewing Madison documents. At one point, Mr. Iorio walked through the suite of offices displaying a copy of a letter written by Acting RTC Chief Executive Altman on either February 1 or 2, 1994. The letter was addressed to various members of Congress. It responded to their concerns about statute of limitations issues. I found it odd that Mr. Iorio would have a copy of such a letter because RTC staff are not generally copied on the Chief Executive Officer's correspondence. I thought that it was inappropriate for Mr. Iorio to alarm the Kansas staff by using the letter to emphasize the growing tension between the RTC and Congress over the civil statute of limitations for Madison claims.

At the suggestion of Mr. Iorio, I went to lunch with several of the investigators. During lunch, Mr. Iorio encouraged me to

drink alcohol. I declined. After lunch, I returned to conference room which contained Madison documents. At Mr. Iorio's suggestion, I spoke briefly to investigator Kenneth Foust about Madison issues during the afternoon. It was the first and only time that I have met Mr. Foust.

Several times during the day, Mr. Iorio prodded me to speak to Ms. Lewis. After Mr. Iorio escorted me to Mr. Foust's office, he returned to escort me to visit Ms. Lewis's office. In retrospect, it was odd that Mr. Iorio went to such lengths to escort me to the offices of his staffers and then purposely left us alone to talk. It is possible that he was aware that one or more of his employee's offices were "bugged", but did not want his own voice recorded.

While I was in Kansas City, no one informed me that our conversation was being recorded. Such conduct is illegal in many states. Moreover, Ms. Lewis went out of her way to make the conversation appear casual. For example, she encouraged me to sit on the sofa in her office and did not take notes of our discussion. I regarded the conversation as a cursory and unimportant chat at the end of a long day.

To the best of my recollection, the conversation mostly consisted of Ms. Lewis freely expressing her views and ideas about the criminal matters on which she had worked. I did not discourage her. I believe that I was disappointed to discover that she had not retained copies of many records which she had used in the course of her project. However, I generally recall discussing the fact that I could issue administrative subpoenas to recover the missing

documents.

To the best of my recollection, Ms. Lewis expressed implausible suspicions about the Clintons. Specifically, I believe that she asserted that then-Governor Clinton knew that Madison was insolvent in the mid-1980's. This suggestion damaged her credibility with me because I had spent two years working on the Madison accounting malpractice case. One of the central allegations in that case was that Madison's auditors had failed to recognize that Madison was insolvent by 1985. I still do not understand how Ms. Lewis could assume that Mr. Clinton understood Madison's true financial condition at a time when the institution's own financial statements asserted that it was profitable and the institution's auditors issued opinions which concluded that the statements had been fairly and accurately presented.

I have no recollection of saying that anyone hoped for a particular outcome for the civil investigation. I would emphasize that even Ms. Lewis has admitted that I repeatedly assured her that everyone was seeking <u>honest</u> answers.

I left the investigators' offices in time to return to Washington D.C. on a flight which left Kansas at roughly 6:00 pm. I have had no contact with Ms. Lewis since February 2, 1994.

STATEMENT MADE BY CONGRESSMAN LEACH ON MARCH 24, 1994

I gave my conversation with Ms. Lewis no further thought until Congressman Leach referred to it in his Congressional statement made on March 24, 1994, almost two months later. I was

surprised by the concerns he professed because I knew that I had not behaved in an unethical manner.[3] Further, I was puzzled by his characterization of the conversation because it appeared to be based only on a page of notes allegedly taken by Ms. Lewis. However, as explained above, I knew that Ms. Lewis had not taken notes during our conversation. I was therefore skeptical of Congressman Leach's description of the meeting with Ms. Lewis. Because I did not believe that I had made the remarks which he attributed to me, I denied making them in response to questions asked by members of the press. I still have no recollection of making them.[4]

Congressman Leach did not seek an explanation from me or, to the best of my knowledge, from the RTC before making his allegations public. I am not aware that he ever made a referral to any governmental body equipped to investigate such issues. It is

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[3] Independent Counsel Fiske has completed the Washington phase of his investigation. As you know, he has concluded that the relevant "contacts" did not constitute criminal activity. In correspondence to Committee Chairman Gonzales, Mr. Fiske has also stated that he has concluded his investigation into the February 2, 1994 conversation between me and Ms. Lewis. From these statements from Mr. Fiske, it is reasonable to infer that he has concluded that my conversation with Ms. Lewis was not criminal in nature. The record should also reflect that I have been told by one of the prosecutors who works for Mr. Fiske that I am not the target of any criminal investigation.

[4] As of February 2, 1994, I was in-house counsel for thirteen complex RTC lawsuits. I was also responsible for supervising three other RTC civil investigations. I shouldered all of these responsibilities in addition to those assigned to me as a member of the Madison civil team. Between February 2, 1994 and March 24, 1994, I had scores of conversations with RTC investigators and counsel about these matters. Under these circumstances, it is understandable that my recollection of the brief, casual conversation with Ms. Lewis remains dim.

curious that despite his professed concern about ethical matters, he did not take steps likely to produce answers to his questions. Instead, he waited until March 24, 1994, the day on which President Clinton held a news conference on Whitewater issues, to publicize his allegations. The timing of his statement appears to have been governed entirely by political concerns. Any fair-minded person who sought to discover the truth would have made some effort to ascertain my version of events before publicly attacking me from the floor of the House of Representatives.

I remain disappointed that Congressman Leach did not make this effort six months ago, but I thank this Committee for doing so today.

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(202) 226-4247

August 2, 1994

Mr. Jack Ryan
Acting Chief Executive Officer
Resolution Trust Corporation
801 Seventeenth Street, NW
Washington, DC 20434

Dear Mr. Ryan:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Department of Treasury related to Madison Guaranty Savings and Loan.

Committee rules require that 200 copies of your written testimony be delivered to Room 2129, Rayburn House Office Building, no later than the close of business August 4, 1994.

Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

Henry B. Gonzalez
Chairman

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August 2, 1994

Ms. April Breslaw
Staff Attorney,
Personal Liability Section
Resolution Trust Corporation
801 Seventeenth Street, NW
Washington, DC 20434

Dear Ms. Breslaw:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Department of Treasury related to Madison Guaranty Savings and Loan.

Committee rules require that 200 copies of your written testimony be delivered to Room 2129, Rayburn House Office Building, no later than the close of business August 4, 1994.

Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

Henry B. Gonzalez
Chairman

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August 2, 1994

Mr. James Dudine
Chief of Investigation
Resolution Trust Corporation
801 Seventeenth Street, NW
Washington, DC 20434

Dear Mr. Dudine:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Department of Treasury related to Madison Guaranty Savings and Loan.

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Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

Henry B. Gonzalez
Chairman

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August 2, 1994

Mr. Tom Hindes
Assistant General Counsel,
Personal Liability Section
Resolution Trust Corporation
801 Seventeenth Street, NW
Washington, DC 20434

Dear Mr. Hindes:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Department of Treasury related to Madison Guaranty Savings and Loan.

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Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

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Chairman

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August 2, 1994

Mr. Stephen Katsanos
Press Spokesman
Resolution Trust Corporation
801 Seventeenth Street, NW
Washington, DC 20434

Dear Mr. Katsanos:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

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Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

Henry B. Gonzalez
Chairman

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August 2, 1994

Ms. Ellen Kulka
General Counsel
Resolution Trust Corporation
801 Seventeenth Street, NW
Washington, DC 20434

Dear Ms. Kulka:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

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Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
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COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6050

August 2, 1994

Ms. Jean Lewis
Criminal Investigator
Resolution Trust Corporation
Kansas City
4900 Main Street – Suite 200
Board of Trade Building
Kansas City, Missouri 64112

Dear Ms. Lewis:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Department of Treasury related to Madison Guaranty Savings and Loan.

Committee rules require that 200 copies of your written testimony be delivered to Room 2129, Rayburn House Office Building, no later than the close of business August 4, 1994.

Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

copy to: Mike Forshey, Esquire

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COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

August 2, 1994

Mr. William Roelle
Deputy to the Director
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Washington, DC 20429

Dear Mr. Roelle:

Pursuant to the bipartisan House Resolution 394, and the recent bipartisan House Leadership agreement, the Committee on Banking, Finance and Urban Affairs will hold a series of hearings on the Washington phase of the so-called Whitewater affair. I respectfully request that you testify at the fourth hearing on August 5, 1994, at 9:30 a.m., in Room 2128, Rayburn House Office Building.

Your testimony should focus on your contacts with the White House and the Department of Treasury related to Madison Guaranty Savings and Loan.

Committee rules require that 200 copies of your written testimony be delivered to Room 2129, Rayburn House Office Building, no later than the close of business August 4, 1994.

Thank you for your consideration. The Committee looks forward to your testimony.

With best wishes,

Sincerely,

Henry B. Gonzalez
Chairman

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(210) 227-3800

August 3, 1994

VIA TELECOPIER NO. 202/225-6952
AND U.S. FIRST CLASS MAIL

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and Urban Affairs
United States House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Chairman Gonzalez:

As you are aware, I represent Ms. Jean Lewis, Senior Criminal Investigator with the Resolution Trust Corporation, Kansas City, Missouri. Ms. Lewis and I are in receipt of your August 2, 1994 letter inviting her to testify before the House Banking Committee on August 5, 1994 concerning her "contacts with the White House and the Department of Treasury related to Madison Guaranty Savings and Loan". Regretfully, at this time, Ms. Lewis must respectfully decline your invitation to testify before the House Banking Committee for the following reasons.

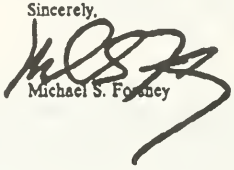
Ms. Lewis has had no contacts with the White House and/or the Department of Treasury related to her investigation of Madison Guaranty Savings and Loan. Accordingly, Ms. Lewis would not be in a position to provide any relevant testimony.

Furthermore, although Ms. Lewis will cooperate with the House Banking Committee in connection with its hearings on Madison Guaranty Savings and Loan at the appropriate time, Ms. Lewis intends to insure that her cooperation does not potentially compromise the ongoing investigation by the Office of the Independent Counsel. In this regard, I have confirmed with the Office of the Independent Counsel that they have requested and that the House Banking Committee has previously agreed that the scope of Ms. Lewis' testimony must be strictly limited to her February 2, 1994 conversation with Ms. April Breslaw pending the completion of the continuing investigation by the Independent Counsel. Within this context, it is my further understanding that Ms. Lewis would not be in a position to discuss any internal Resolution Trust Corporation matters which continue to be the subject of the ongoing Independent Counsel's investigation. We believe that it would be impossible for

Ms. Lewis to testify concerning her conversation with Ms. Breslaw without necessarily exceeding the limited scope requested by the Office of the Independent Counsel and agreed to by your Committee. Furthermore, it is my understanding that your Committee has a tape of the conversation between Ms. Lewis and Ms. Breslaw. We believe that the tape will speak for itself as to the conversation.

Therefore, Mr. Chairman, with all respect due you and the Members of the Committee, Ms. Lewis must decline your invitation to testify at this time. I trust the Committee will understand, appreciate and share Ms. Lewis' concern that every effort be made to avoid the potential for compromise of the Independent Counsel's investigation. Of course, once the limitations on the scope of Ms. Lewis' ability to testify are withdrawn, Ms. Lewis would accept a subsequent invitation to appear and testify fully before your committee.

Sincerely,



Michael S. Feldberg

cc: Ms. Jean Lewis
Ms. Briget Polichene, Esq.

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RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

August 15, 1994

Henry B. Gonzalez
Chairman
Committee on Banking, Finance, and Urban Affairs
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Congressman Gonzalez:

As you know, I testified before the Committee on Banking, Finance, and Urban Affairs on August 5, 1994. During that hearing, Congressman Bachus of Alabama introduced a redacted set of notes taken by the RTC General Counsel's secretary into the Congressional Record. These notes were taken during a meeting among RTC General Counsel Kulka, Assistant General Counsel Hindes, and me on March 25, 1994. This letter is intended to reply to questions raised by Congressman Bachus regarding the accuracy of the notes.

I have reviewed the redacted version of these notes provided to the Committee. As I testified before the Committee, I saw the notes for the first time approximately one week before the hearing held on August 5, 1994. In other words, over four months elapsed between the time that the notes were taken on March 25, 1994 and the time that I first saw them. It is difficult for me to recall the precise words which were spoken in March. However, I believe that the notes lack clarity or are in error in the following respects.

1. The second sentence of the next to last paragraph on page one begins, "In her notes". This should be clarified to read, "In Jean Lewis's notes attached to Leach's Congressional statement...". (Otherwise, the sentence could be interpreted to refer to notes taken by either Lewis or me during our conversation. However, neither of us took notes while we talked.)

2. The second sentence of the first paragraph on page two contains an inaccurate description of the status of Madison civil matters in 1992. It should be clarified to read, "... by this time, the agency had closed the Director/Officer ("D&O) liability and fidelity bond investigations and settled the accounting malpractice case." (We did not lose a Madison D&O

case, nor did we settle a Madison bond claim.)

3. The last sentence of the first paragraph on page two should state that McDougal was acquitted in 1990, rather than 1992.

4. The fourth paragraph on page two suggests that I mentioned Ms. Kulka and Mr. Ryan to Ms. Lewis. I do not recall saying this. However, it is possible that I speculated about how the names of Ms. Kulka and Mr. Ryan could possibly have arisen in the course of my conversation with Ms. Lewis. I believe that the paragraph would be more accurate if it read:

> April said that she told Jean that we had been getting inquiries in Washington about Whitewater. (She said that she was thinking of the tolling agreements and the D'Amato letter.) April said that this was the only point where she might have mentioned Ellen Kulka and Jack Ryan.

5. The second sentence of the last paragraph on page two states, "She said that she looked at her notes...". I do not understand this comment. The last sentence of this paragraph correctly states, "She said that she did not make any notes of this conversation with Jean." (As noted above, neither Lewis nor I took notes during our conversation.)

6. The fourth sentence of the seventh paragraph on page three should state, "She stated that they agreed with the conclusions that she had reached in 1990.".

7. The fourth paragraph on page four is difficult to understand. Although I do not have a clear recollection of this passage of conversation, it is possible that this paragraph refers to a confusing section of the Kansas investigators' report. Essentially, the investigators draw sinister implications from the possibility that Mr. Hubble explained an Arkansas court's ruling to Mr. Ward. Because the court's opinion has always been a matter of public record, it is hard to see why Mr. Hubble's actions were characterized as illicit. These allegations demonstrate the investigators' abject lack of familiarity with litigation.

8. The seventh paragraph on page four states that one of the investigators was walking around with, "the D'Amato response". I believe that this is a reference to Mr. Iorio's behavior. As described in my written testimony:

> Mr. Iorio walked through the suite of offices displaying a copy of a letter written by Acting RTC Chief Executive Altman on either February 1 or 2, 1994. The letter was addressed to various members of Congress. It responded to their concerns about statute of limitations issues. I found it odd that Mr. Iorio would have a copy of such a letter because RTC staff are not generally copied on the Chief Executive Officer's correspondence.

9. The first sentence of the fourth paragraph on page five should refer to "Tom Murray", not "Tom Rory".

10. The last sentence of the seventh paragraph on page five states, "Steve gave her a copy of the tape.". I do not understand this. I do not have (nor have I ever received) a copy of either Jean Lewis's tape or a tape of Leach's Congressional statement.

I hope that this information is useful.

Sincerely yours,

April A. Breslaw
Counsel
RTC Professional Liability Section

cc: Congressman Bachus

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

August 24, 1994

Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to you to amplify the information provided in the testimony I gave before the Committee on August 5, 1994.

I have provided editorial corrections to the transcription of my testimony of August 5th. However, I also would like to provide information to the Committee which amplifies my response to one of the questions I was asked, but which does not take the form of a correction or edit.

Representative Lazio asked me a question concerning the criminal referrals relating to Madison Guaranty Savings and Loan. Representative Lazio's question, beginning on page 150, line 3529, of the transcription, was the following: "Was there anybody outside of the RTC that knew about that, that--not knew about it. If I can--was there anybody outside of the RTC that received a copy of those documents?" I responded, page 151, line 3533, "Not to my knowledge."

After I responded to Representative Lazio's inquiry, I was informed that the United States General Accounting Office ("GAO") at its request had been provided an opportunity to review the criminal referrals relating to Madison Guaranty Savings and Loan.

I hope this supplemental information is useful. Should you have any questions, please feel free to contact me.

Sincerely,

Ellen B. Kulka
General Counsel

801 17th Street, NW Washington, DC 20434

Summation of The Honorable Henry B. Gonzalez
Chairman, Committee on Banking, Finance and Urban Affairs
August 5, 1994

These hearings have been difficult, and I want to thank the Members for their cooperation, and the staff for their very hard work. These men and women have performed a massive amount of research in a very short time, and they deserve our thanks.

What we have seen throughout this year is a series of huge claims grounded on slender and even nonexistent evidence. The Congress has an obligation to review the facts, but I must say that nothing I have seen thus far would come anywhere close to justifying the loud claims, the worst of which range from the merely slanderous to the outright irresponsible. This matter is, I am sorry to say, politics at its worst --- and a startling contrast to the kind of good will and cooperation that has marked all of this Committee's legislative work. I am proud of that cooperation and comity, which allowed us to pass a massive housing bill by a ten to one margin in the House, and two major banking bills by even greater margins.

I want to review some of the claims that have been made in this matter, and what the facts really are.

First of all, there have been lurid, absolutely groundless claims that the late Vincent Foster was murdered. Even my good friend Mr. Leach darkly hinted at a murderous plot, saying that he wasn't surprised that the special counsel had "re-opened the investigation of the suicide of Vince Foster." I hope that we can at last lay this matter to rest. These speculations, groundless as they are, disproved and debunked, ought never again to be raised.

Second, there were numerous claims that Mr. Foster killed himself because he had some guilty knowledge about Whitewater. The Independent Counsel interviewed dozens of people to check that possibility. His conclusion was this: Mr. Foster did not kill himself because he felt guilty about Whitewater.

Third, again and again, Republicans have claimed that the investigation into Madison Guaranty's failure was frustrated. This clearly was not the case. In fact, Madison was investigated more thoroughly and carefully than institutions that were hundreds of times as large, whose failure cost billions. Consider professional liability: Silverado had one attorney doing a professional liability review. By contrast, Madison soaked up 25 per cent of the Resolution Trust Corporation's staff assigned to such reviews -- and it also was the only institution that the RTC hired outside counsel to investigate. Indeed, that outside counsel was hired five days after the much-celebrated White House meeting that supposedly was called to control or frustrate the investigation.

We have been told that the RTC employed unprecedented reviews to frustrate criminal inquiries. In fact, the RTC followed its normal policy. It was claimed that the RTC sent legal analyses to the Department of Justice, concerning the criminal referrals, when in fact this did not happen.

We have been told that there is a cover-up, but in fact the White House has made its personnel available in an unprecedented way -- voluntarily, and at great personal cost to those individuals, in order to make certain the facts are out. The Treasury provided full and free access to documents and employees, and the RTC itself provided witnesses and documents promptly -- again, in the interest of full disclosure.

The President and Administration officials have been accused of "possible crimes" by my friend from Iowa, but no such crimes have been found on the part of the President or on the part of anyone who served him. Nor for that matter have ethical violations taken place. Possible misjudgments, probably mistakes, but certainly no crimes and certainly no unethical intent or behavior.

Oddly and ironically, disclosure has been called cover-up, cooperation has been called recalcitrance, and honest employees have been demeaned, degraded and defamed.

These hearings have, I hope, been conducted as fairly as possible. As we come to a close, I must express my fervent hope that we will not again see the kind of exaggerations and untruths that have been employed against the President and good, honest people who work for him and all of us. The country, and those of us who serve it, who place their trust in us, suffer the most when political discourse is as degraded as it has been by the mean-spirited, callous, gross exaggerations and untruths that have been made by zealous partisans opposed to the President, who have sought to exploit this matter for their own political ends.

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ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

November 9, 1993

The Honorable Henry B. Gonzalez
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

With the concurrence of the Republican leadership of the House, the Republican caucus of the Banking Committee hereby requests that hearings be held on the failure of Madison Guaranty Savings and Loan.

As you are no doubt aware, a number of articles have recently appeared in the press concerning this matter. Specifically, the Washington Post reported on October 31 that the RTC has forwarded to the U.S. Attorney information about 10 matters arising from transactions at Madison; and further that a written summary of the referral has been sent to the Justice Department. From other news reports it would appear that Madison S&L was a rogue thrift perpetrating a fraud on the taxpayers of the U.S. As a state chartered enterprise its creation and prolonged existence in an insolvent condition depended on the acquiescence of state officials.

The Madison case bears striking similarity with other cases, including a case in which the regulators moved to ban the son of the former President from serving on the board of any federally insured depository institution, and the case (Charles Keating/Lincoln) in which the regulators moved to fine certain law firms and bar certain attorneys from any dealings with federally insured depository institutions.

The minority is sensitive to the rights of the individuals involved in these matters, and more particularly, in view of their high public profile, wants to be very careful that reputations are not cavalierly damaged. The minority is also sensitive to the fact that a criminal investigation is apparently underway. Nevertheless, these sensitivities should not be a bar to a legitimate inquiry by the Committee. Given the record of this Committee in addressing thrift issues that touched the former President, it is incumbent that this Committee not refuse

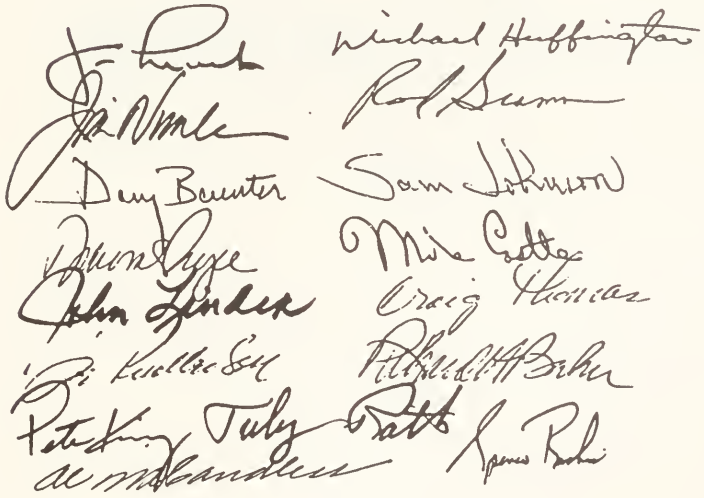
to address issues that may embarrass the current Administrations in Washington and Little Rock. The issue isn't politics; it is political example. Individuals holding public trust cannot be allowed to abuse power at taxpayer expense without accountability.

Accordingly, we respectfully request that the Committee invite all relevant federal regulators to appear and issue subpoenas to state regulators, Madison's top officers and directors, and representatives of the Rose law firm which represented Madison.

The appearance of these parties will enable the Committee to address a number of issues including whether there were insider loan abuses, whether sound underwriting standards were followed, and whether Madison made political contributions and gifts or improper personal loans with insured deposits. Other lines of inquiry include the timeliness of the actions of state and federal regulators and the extent to which breaches of professional responsibility by accountants and law firms contributed to Madison's failure.

Thank you for your consideration.

Sincerely,



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PETER KING NEW YORK

BERNARD SANDERS VERMONT

(202) 226-4247

November 9, 1993

The Honorable Jim Leach
2186 Rayburn House Office Bldg.
Washington, DC 20515

Dear Jim:

Thank you for your letter regarding Madison Guaranty Savings and Loan.

I understand your concern about the conduct of this institution and the circumstances surrounding its failure. As you mention, the Committee has historically examined matters involving the failures of a number of significant financial institutions. I recognize the Committee's legitimate interest in addressing the relevant issues surrounding Madison Guaranty. However, as before, the Committee must tread carefully around ongoing criminal referrals and professional liability cases.

Because I do not have any details beyond those reported in the Washington Post and other newspapers, I will designate appropriate staff to collect information about Madison Guaranty Savings and Loan. I would also appreciate your providing members of the minority staff to participate in this effort. With best wishes.

Sincerely,

Henry

Henry B. Gonzalez
Chairman

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November 15, 1993

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking,
Finance and Urban Affairs
2186 Rayburn House Office Building
Washington, DC 20515

Dear Jim,

I am writing in further response to your letter of November 9, 1993, related to the failure of Madison Guaranty Savings and Loan (Madison Guaranty). First let me reiterate my commitment to investigating the legitimate issues surrounding the failure of Madison Guaranty.

Since our last correspondence on this issue, I have assigned Mr. Dennis Kane and Mr. Joseph Reilly to staff this investigation. They have started gathering publicly available information regarding the failure of Madison Guaranty and will be happy to share this information with appropriate minority staff.

Mindful of the ongoing criminal and professional liability investigation under way related to Madison Guaranty, I am sure that you share my view that it is in the best interest of all parties involved that the Madison Guaranty investigation be conducted in a bi-partisan manner. Accordingly, I reiterate my request that you identify minority staff that will be assigned to this investigation. Once that assignment is made, I propose that our staffs meet at their earliest convenience to discuss mutually satisfactory procedures and processes to be employed over the course of the Committee's investigation of Madison Guaranty.

I look forward to your cooperation.

With best wishes,

Sincerely,

Henry B. Gonzalez
Chairman

HBG:dk

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ONE HUNDRED THIRD CONGRESS

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November 16, 1993

The Honorable Henry B. Gonzalez
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the Republican caucus of the Banking Committee, I would like to thank you for your prompt consideration of and response to our letter concerning Madison Guaranty Savings and Loan. The minority appreciates your concurrence on the "Committee's legitimate interest in addressing the relevant issues surrounding Madison Guaranty."

With respect to your request that minority staff assist your staff in the collection of information about Madison, I hereby designate the following minority staff members: Mike McGarry, John Scharfenberg, Margo Tank, and Lammot DuPont.

At the risk of being presumptuous, it is my own sense that we ought to first proceed with requests for documents from the relevant state and federal regulatory authorities which had supervisory jurisdiction over Madison Guaranty Savings and Loan. Based on a precursory review, these would include the office of the Arkansas State Securities Commissioner; the Office of Thrift Supervision in Washington, D.C. and its Dallas District Office; the Resolution Trust Corporation in Washington, D.C. and its Kansas City field office; and the Small Business Administration. The minority staff is available to assist your staff in drafting requests for information to these and other relevant entities.

Secondly, on the surface there appear to be a number of individuals who should be interviewed after documents have been reviewed. Such individuals would include, at a minimum, Mr. James B. McDougal, the owner of Madison Guaranty; Ms. Beverly Bassett Schaffer, former Arkansas Securities Commissioner; Ms. Susan McDougal, business partner in Whitewater Development Corporation; Mr. David Hale, owner of Capital Management Services, Incorporated; and regulators at the Office of Thrift Supervision in Dallas who supervised Madison.

Finally, as stated in our November 9 letter, the minority is sensitive to the rights of individuals involved in the Madison case and wants to be very careful that reputations are not cavalierly damaged. In this regard, I have emphasized to staff the absolute necessity of proceeding in a cautious and confidential manner.

Again, thank you for your very prompt response and I look forward to working with you on this important issue.

Sincerely,

James A. Leach
Ranking Member

JAL:mjm

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December 9, 1993

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance and Urban Affairs
2186 Rayburn House Office Building
Washington, DC 20515

Dear Jim,

With regard to the Madison Guaranty matter, let me assure you that the Committee staff is continuing to survey the facts as they become available. The issues that appear outstanding are matters of legal liability and are being pursued vigorously by the Justice Department and regulatory agencies.

Madison Guaranty was placed under regulatory surveillance early on, appropriate disciplinary measures were put in place, and the institution closed when conservation efforts failed. Its failure follows a familiar pattern and there is no information suggesting it was a unique case or one that presents legislative issues not previously addressed or any issues now pending before the Committee.

I recognize your obligation to the Republican caucus. On the other hand, my own obligation is to ensure that Committee resources are not used for purposes unrelated to legitimate legislative concerns and goals. Let me assure you the Committee staff will continue to review this matter and I will take whatever actions may be warranted by the facts.

Sincerely,

Henry

Henry B. Gonzalez
Chairman

HBG:sst

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December 9, 1993

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Henry:

I was disappointed to learn, as you confirmed for me this morning, of the decision your chief of staff Kelsay Meek conveyed to Tony Cole of my staff yesterday that you did not intend to sign the draft letters we submitted last week to your staff requesting information from various regulatory bodies relating to Madison Guaranty Savings and Loan.

I had hoped this investigation would be bi-partisan in nature, but based on my obligation to the Republican caucus, I have no choice but to pursue further enquiry on behalf of the Minority.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:dmd

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December 9, 1993

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Henry:

I am in receipt of your letter dated December 9, 1993 regarding Madison Guaranty Savings and Loan and would like to take this opportunity to respond respectfully to your point that Madison's "failure follows a familiar pattern and there is no information suggesting it was a unique case or one that presents legislative issues not previously addressed or any issues now pending before the Committee." I would disagree with that assessment and emphasize the exceptional circumstances concerning both the failure and resolution of Madison which appear atypical and call out for Congressional review.

One of the most important constitutional roles of the Congress is to provide oversight and I was encouraged by your statement at this morning's hearing that the Committee has not completed its review of the thrift debacle. Of the greatest governmental failures of the last 20 years, one that stands out is that oversight has been too lax, not too vigorous. If we fail to pursue our constitutionally given oversight responsibilities, we are in effect giving a permissive green light to those who want to fudge the law or set aside ethics.

The Minority feels strongly that there are a number of legislative aspects that relate directly to the failure and resolution of Madison Guaranty. First, reorganization of the banking regulatory structure has received high priority on the Administration's and the Committee's agenda. Based on news accounts alone, the abuse of state powers and failure of state regulation that appear to exist in the Madison case warrants investigation in the context of addressing reform of the regulatory structure.

Second, as you know, Congress recently approved what is hoped to be the final installment to shore up the deposit insurance system for savings and loans. Although the overall cost to the taxpayers for Madison's failure is relatively small, the percentage of dollar loss to total assets is unusually high. In fact, the cost of Madison's failure equalled nearly 50 percent of the institution's total assets.

Third, it is apparent that Madison was allowed to continue in existence as a private piggy bank despite its insolvent condition. Here Madison bears direct relevance to whether Congress insists on early intervention and resolution of troubled institutions as well as issues related to financial institution insolvency. As you know, Congress is now considering the repeal or modification of many of the early intervention and safety and soundness provisions of FDICIA. In your letter, you state that "Madison Guaranty was placed under regulatory surveillance early on, appropriate disciplinary measures were put in place, and the institution closed when conservation efforts failed." Unfortunately, this is not the case. Federal regulators noted severe problems with Madison's condition in 1984. Yet from 1984 to 1986, Madison grew from a $49 million institution to a $125 million institution.

Fourth, as in the case of BNL, government guarantees of private loans were reportedly abused, with allegations that SBA guarantees were improperly obtained and used by Madison officials. It is my understanding that the Small Business Committee has found this issue alone sufficient to conduct a committee investigation. I believe the Banking Committee has a greater legislative interest in the Madison case than our sister committee.

Fifth, during James McDougal's tenure at Madison, it was reported that loans to officers, directors and executives increased from $500,000 to $17 million. With such a dramatic growth in loans to insiders, the Committee should investigate whether spurts in growth of an institution's loans to insiders should be a legislative concern or at least serve as a warning to the regulators. Moreover, absent an investigation, the Committee will not be permitted to know how the regulators responded to this issue during their examinations of Madison.

Sixth, it appears Madison paid its real estate subsidiary substantial commissions for land sales, including payments of more than $712,000 during a three year period to Mr. McDougal's wife, Susan, and two of her brothers, James and William. The Committee should determine whether insider financial arrangements should be subject to greater scrutiny. Again, absent a review of

regulatory documents, the Committee will not be permitted to know how the regulators responded to this issue during their examinations of Madison.

Seventh, it appears that Madison's legal documents were so poor that in many cases examiners could not determine the "real nature" of the transactions. The Committee needs to determine if there should be a base standard for an institution in keeping adequate legal documents.

Eighth, it appears improper accounting techniques were used to disguise solvency problems. The Committee needs to determine if these accounting practices are still being used by some financial institutions.

Ninth, after Madison's failure, the late Vince Foster of the Rose law firm solicited legal work from the FDIC to sue Madison. Rose was selected to pursue Madison's accountants, Frost & Company. Rose settled the $60 million suit for $1 million. Sources claim that the $1 million was below Frost's insurance coverage. Rose billed the government $400,000 for its work. Webster Hubbell, now Associate Attorney General, was the lead attorney in the case. His father-in-law was an officer of a subsidiary of Madison and in fact, was one of Madison's largest borrowers. Hubbell's father-in-law did not repay $587,793 in loans to Madison. FDIC officials have said that they were not aware of the Rose law firm's work on behalf of Madison before it was hired.

The Committee must examine the lack of internal controls at the FDIC with respect to its enforcement of conflict of interest rules in the hiring of outside attorneys. Not only had Rose worked for Madison, but the lead attorney had a relative deeply in debt to the institution. How could this have escaped the knowledge of FDIC officials? Without a Committee investigation, we cannot determine the adequacy of the FDIC's past and current procedures for disqualifying firms with conflicts.

Tenth, the RTC has made a criminal referral to the Justice Department which includes allegations that corporate funds may have been used by Madison for political purposes. As you know, corporate contributions by federally chartered institutions are barred by federal election law. The Madison case raises the issue of whether state chartered, but federally insured, institutions should also have the same restriction.

Finally, the Frost & Co. audit, that was used by the Rose Firm to help keep Madison in business in 1985, failed to disclose that Frost's chief auditor of Madison, James Alford, had two

outstanding loans at Madison at the time of the audit. The Committee needs to determine whether or not federal banking regulators should be barred from accepting an audit from an individual or firm indebted to the institution.

So much more is needed to be known about Madison and as you have said so often, the public has a right to know. The above list is not an exhaustive outline of the issues presented by the Madison case which bear relevance to the Committee's jurisdiction, but is a cursory overview of circumstances based on news reports which indicate a direct link to the Committee's legislative interests.

Above all, Congress has an obligation to the American public to ensure that no American, whatever his or her position, is above public accountability and the rule of the law.

Sincerely,

James A. Leach
Ranking Member

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December 10, 1993

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance and Urban Affairs
2186 Rayburn H.O.B.
Washington, D.C. 20515

Dear Jim:

I have perused your lengthy letter of December 9, 1993, slipped under my door late last evening.

Let me reiterate that I fully understand that political operatives within your party are exerting tremendous pressure on you to link the failure Madison Bank directly to the President, even to the point of raising an insensitive reference to the sad case of the late Vince Foster.

Since the very first day of my Chairmanship I have strived, on a bipartisan basis, to study and rectify the types of regulatory abuse issues identified in your letter. I do not believe I need to detail how the Banking Committee, under my chairmanship, has successfully addressed, through oversight and legislation, the issues you raise, regardless of the policial afflilation of the individuals involved.

However, I will never permit the Banking Committee to become an instrument of any Party's desire to conduct a purely political fishing expedition. Rest assured, the Committee will continue to review this matter but, again, I will not permit Republican political operatives to set the agenda of the House Banking Committee.

Sincerely,

Henry B. Gonzalez
Chairman

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December 16, 1993

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Banking, Finance & Urban Affairs

The Honorable Henry B. Gonzalez
2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Henry:

I am writing pursuant to Rule XIV of the Rules of the Committee on Banking, Finance and Urban Affairs to request authorization for two members of the Banking Committee Minority staff to travel to Little Rock, Arkansas to review state records concerning the regulation of a failed federally insured institution.

The names of the staff who would be travelling are Mike McGarry and John Scharfenberg. While in Little Rock, these staff members will visit, among other places, the Arkansas State Securities Department at 201 East Markham. The dates for travel are Sunday, December 19, 1993 through Wednesday, December 22, 1993.

Thank you for your prompt attention to this matter.

Sincerely,

James A. Leach
Ranking Member

JIM LEACH
MEMBER OF CONGRESS

Logged - 12/17/93

17 Dec. 1993

Dear Henry,

Thank you.

J.

SPENCER T. BACHUS, III
6TH DISTRICT, ALABAMA

COMMITTEES
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January 25, 1994

Chairman Henry B. Gonzalez
Committee On Banking, Finance and Urban Affairs
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Gonzalez:

In light of new reports of management abuses at the Resolution Trust Corporation and the lack of permanent leadership at the agency, it is most critical that the Banking Committee's oversight function is exercised.

Last year this Committee did not hold the second of the semi-annual oversight hearings required by the enactment FIRREA (Title V, Section 501). It is our interpretation that the Thrift Depositor Protection Oversight Board is operating in violation of the law until this hearing is held. We urge you to schedule a hearing as soon as possible to ensure that the board is complying with the law. If the Oversight Board refuses to cooperate with your request, we will support and encourage the use of the Committee's subpoena power.

We cannot allow the problems of an already distressed savings and loan industry to be compounded by a lack of oversight of the Resolution Trust Corporation. Because the agency has been uniquely functioning with a Treasury Department official as head of the agency and without an independently appointed Chief Executive Officer for the past year, our oversight role is even more crucial.

In addition, pursuant to Committee Rule IV, paragraph (4) related to the calling and interrogation of witnesses, the minority would respectfully request that witnesses related to the failure of Madison Guaranty, Little Rock, Arkansas, be called to testify at this hearing. Madison presents unique policy issues and witnesses may be able to provide vital information to the Committee related to the RTC's handling of failed S&L's. Upon scheduling of the hearing, we will be happy to provide a Minority witness list.

Given your support of the Committee's oversight role with respect to the Resolution Trust Corporation, we hope you will work to schedule the required hearing in the very near future.

Sincerely,

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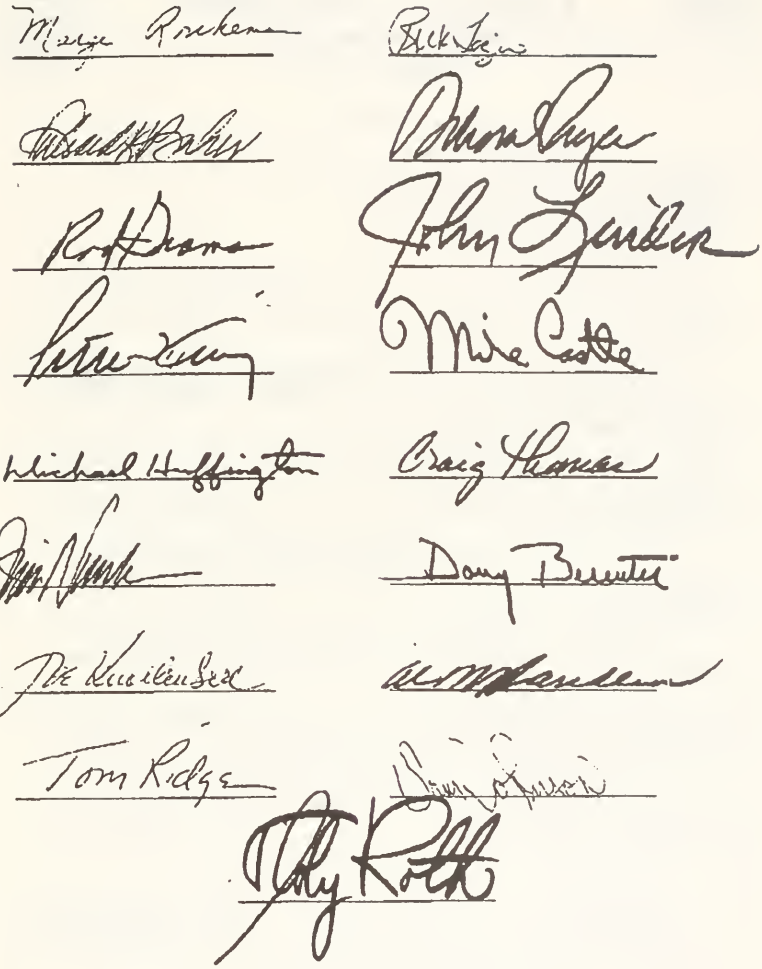
Page 2
Letter to Chairman Gonzalez



SPENCER T. BACHUS, III
6TH DISTRICT, ALABAMA

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February 9, 1994

Chairman Henry B. Gonzalez
Committee On Banking, Finance and Urban Affairs
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Gonzalez:

We are writing you to follow up on the January 25 letter with respect to the Committee's statutorily mandated requirement to hold Thrift Depositor Protection Oversight Board hearings.

As you are probably aware, representatives of agencies who should have testified before the Banking Committee on this subject last October and have not yet done so, testified before the Consumer Credit Subcommittee yesterday on the proposed rule revisions for the Community Reinvestment Act.

Jonathan Fiechter, Acting Director of the Office of Thrift Supervision was asked if the Secretary of the Treasury was prepared to come before the Banking Committee for the oversight hearing. He indicated that you needed to call the hearing and that he assumed the Secretary would comply.

Our concern is that these agencies should not be testifying before the Committee or any of its Subcommittees when they are not operating in compliance with the law. The Committee has to preserve its authority to make laws, by ensuring that its laws are then enforced.

The semi-annual Oversight hearings are an important part of this Committee's oversight responsibility. These hearings were created by this Committee with the passage of FIRREA in 1989.

We once again call on you as Chairman of the Banking Committee to schedule the required hearings of the Thrift Depositor Protection Oversight Board before these agencies again appear before this Committee for other purposes.

The issue isn't one of choice or leadership discretion; it is the law. Failure to hold statutorily required hearing is to violate the very law this committee precipitated.

Sincerely,

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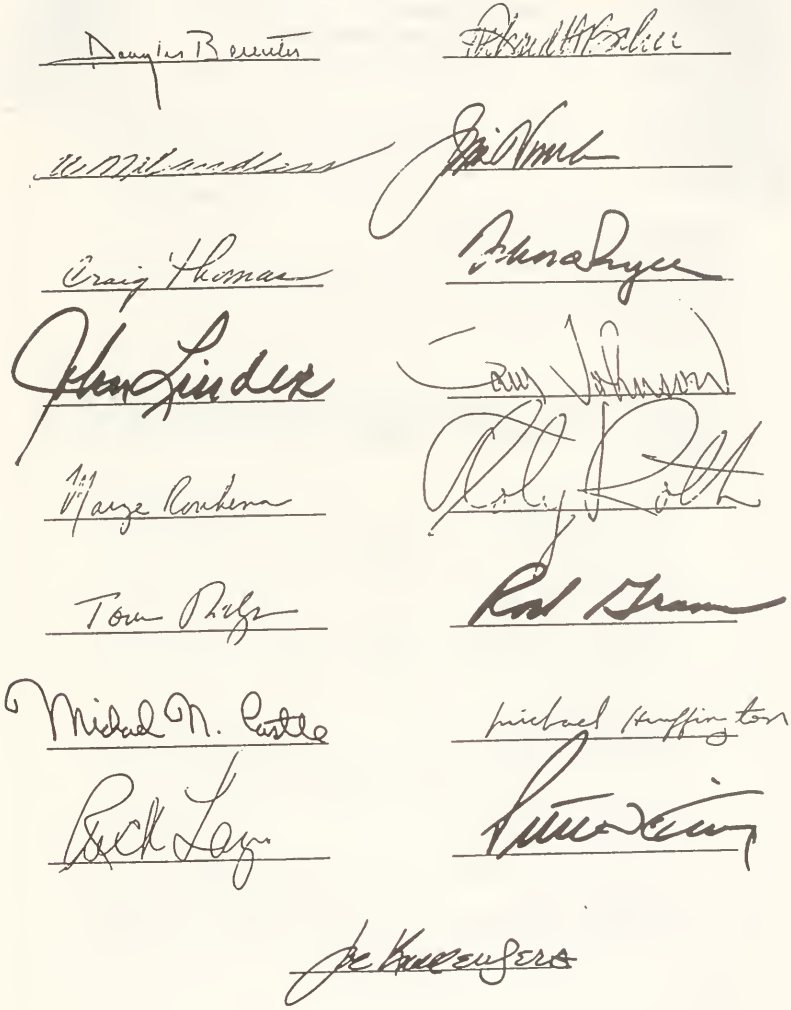
Page 2
Letter to Chairman Gonzalez



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ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 8, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Henry:

In preparation for the upcoming semi-annual oversight hearing of the Thrift Depositor Protection Oversight Board, required by statute, we would request that the following witnesses be asked to testify at the forthcoming Oversight Board hearing pursuant to the committee rules.

1. Mr. Jamea McDougal
   c/o Mr. Sam Heuer, Esq.
   425 West Capital
   Suite 3827
   Little Rock, Arkansas 72201

2. Ms. Susan McDougal
   c/o Mr. Bobby McDaniel, Esq.
   1409 Post Oak Cove
   Jonesboro, Arkansas 72401

3. Mr. David Hale
   c/o Mr. Randy Coleman, Esq.
   Skokos & Coleman
   3200 TCBY Tower
   425 West Capital Avenue
   Little Rock, Arkansas 72201-3439

4. Mr. Sheffield Nelson, Esq.
   Jack, Lyons & Jones
   3400 TCBY Tower
   425 West Capital Avenue
   Little Rock, Arkansas 72201

5. Ms. April Breslaw
   Resolution Trust Corporation

15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

6. Jamee Dudine
Resolution Trust Corporation
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

7. Mr. Lee Ausen
Supervisory Investigator
Criminal Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

8. Mr. L. Richard Iorio
Field Investigative Officer
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

9. Ms. Jean Lewis
Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

10. Mr. Mike Caron
Senior Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

11. Mr. Donald B. Mackay
Trial Attorney
Fraud Section, Criminal Division
U.S. Department of Justice
P.O. Box 28188, Central Station
Washington, D.C. 20038

12. Ms. Paula Casey
United States Attorney
U.S. Attorney's Office
5th Floor, TCBY Building
425 West Capital Avenue
Little Rock, Arkansas 72201

13. Mr. Leslie Patten
Patten, McCarthy & Associates, Inc.
370- 17th Street, Suite 4150
Denver, Colorado 80202

14. Mr. James Lyons, Esq.
1200- 13th Street, Suite 3000
Denver, Colorado 80202

15. Mr. Stanely Tate
1175 N.E. 125th Street
North Miami Beach, Florida 33161

16. Mr. William Roelle
Federal Deposit Insurance Corporation
550- 17th Street, N.W.
Washington, D.C. 20429

17. Mr. Mack McLarty
Chief of Staff
The White House
Washington, D.C. 20500

18. Mr. Bernard Nussbaum
White House Counsel
The White House
Washington, D.C. 20500

19. Mr. Harold Ickes
Deputy Chief of Staff
The White House
Washington, D.C. 20500

20. Ms. Margaret Williams
Chief of Staff
Office of the First Lady
The White House
Washington, D.c. 20500

21. Mr. Mark Gearan
Communications Director
The White House
Washington, D.C. 20500

22. Mr. Bruce Lindsey
Senior Advisor to the President
The White House
Washington, D.C. 20500

23. Ms. Lisa Caputo
Press Secretary
Office of the First Lady
The White House
Washington, D.C. 20500

24. Ms. Jean Hanson
General Counsel
Department of the Treasury
Room 3000
Washington, D.C. 20220

25. Mr. Josh Steiner
Chief of Staff
Department of the Treasury
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

26. Mr. Jack DeVore
c\o Department of the Treasury
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

27. Ms. Beverly Bassett-Schaffer, Esq.

Current Address:

Wright, Lindsey & Jennings
101 West Mountain
Suite 206
Fayetteville, Arkansas 72701

Address as of March 15, 1994:

Wright, Lindsay & Jennings
101 West Mountain
Suite 206
Fayetteville, Arkansas 72701

28. Mr. Dan Lasater
c\o Phoenix Mortgage
301 Louisiana Street
Little Rock, Arkansas 72201
[Must Send Via Registered Mail]

29. Mr. Greg Young
10 Cimarron Circle
Little Rock, Arkansas 72212

30. Mr. Don Denton
#89 Robinwood
Little Rock, AR 72207

31. Ms. Lisa Aunspaugh
* Unknown St.
Little Rock, AR

32. Mr. Erskine Bowles
Administrator
Small Business Administration
409 Third Street, SW
7th Floor
Washington, DC 20416

33. Mr. Charles E. James
2216 Black River Road
Little Rock, AR 72116

34. Ms. Sue Strayhorn
* Street Address Unknown
Little Rock, Arkansas

35. Ms. Ellen Kulka
General Counsel
Resolution Trust Corp.
801- 17th Street, N.W.
Washington, D.C. 20434

36. Mr. Jeremy Hedges
c/o Mr. Dean Overstreet, Esq.
Dover and Dixon
425 West Capitol Street
Suite 3700
Little Rock, Arkansas 72201

37. Mr. Clayton Lindsey
c/o The Rose Law Firm
120 East Fourth Street
Little Rock, AR 72201

38. Ms. Ricki Stacy
c/o The Rose Law Firm
120 East Fourth Street
Little Rock, Arkansas 72201

39. Mr. Roger Altman, Interim Chief Executive Officer of the Resolution Trust Corporation, accompanied by all documents related to Madison Guaranty Savings and Loan and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, all documents related to Madison held at RTC field offices should be included.

40. Mr. Jonathan Fiechter, Acting Director of the Office of Thrift Supervision, accompanied by all documents related to Madison Guaranty Savings and Loan and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail. In addition to documents in

possession at OTS-Washington, all documents related to Madison held at OTS field offices should be included.

As has been the practice at past Banking Committee hearings, we will expect to ask the witnesses if they have discussed, cleared, or otherwise corroborated their testimony with anyone from within the Administration or their respective agency.

Also, we are doubtful that certain of the witnesses listed above will voluntarily appear before the Committee. With this in mind, we would ask that letters of invitation go out immediately so that if anyone turns down the Committee's invitation to testify, the Committee will have ample opportunity to consider whether the issuance of subpoenas would be appropriate.

In addition, because of the ongoing revelations about discussions that have occurred between the RTC, Treasury officials and the White House concerning Madison Guaranty, the Minority reserves the right to request additional witnesses up to and until the conclusion of the hearing(s).

Sincerely,

James A. Leach

Bill McCollum

Marge Roukema

Doug Bereuter

Thomas Ridge

Toby Roth

Alfred McCandless

Richard Baker

Jim Nussle

Craig Thomas

Sam Johnson

Deborah Pryce

John Linder

Joe Knollenberg

Rick Lazio

Rod Grams

Spencer Bachus

Mike Huffington

Michael Castle

Peter King

HENRY B GONZALEZ
20TH DISTRICT TEXAS

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Congress of the United States
House of Representatives
Washington, DC 20515-4320

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TRADE AND MONETARY POLICY

March 9, 1994

FILE #:
B04SL
stw

The Honorable James A. Leach
2186 Rayburn HOB
Washington, D.C. 20515

Dear Jim:

This is to acknowledge receipt of and to thank you for your letter of March 8th. It will get the due consideration it merits.

What was most impressive was the total number of your co-signers revealing for the first time intense interest in RTC and OTS oversight hearings. It is most gratifying to me inasmuch as all, with very few exceptions, were furiously against financing RTC last year.

With every good wish, I remain

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Member of Congress

P.S.: Now, Jim, I saw your sermon in the Washington Times of March 8th. Frankly, there's nothing more absurd - even repugnant- than the spectacle of you bunch of Republicans - and the Washington Times - in fits and paroxysms of morality.

1/2

(article in WT is enclosed)

Whitewater: Public policy and private ethics

By James A. Leach

I would like to take this opportunity to talk not of the issues of the day, but rather of the ethics of our time. In so doing, I would like to take as a starting point a scandal that has come to be dubbed "Whitewater" and suggest it is a central issue not because it is big, but precisely because it is small. In its very smallness, Whitewater evidences the shortcomings of public leadership in America today.

The German architect Mies Van Der Rohe, once suggested that "less is more." The simplicity of design that hallmarked his buildings revealed great aesthetic character. Analogously, for individuals, truth of character is more generally revealed in small acts than large gestures.

Recently a colleague came up to me on the House Floor and exclaimed: "Jim, what is Whitewater? My stomach tells me something's wrong, but I've got no idea what you're talking about. Can you describe it in plain English so a plain American can understand?"

In a nutshell, Whitewater is about the arrogance of power — political conflicts of interest that are self-evidently unseemly. It all began in the late 1970s when an S&L owner named James McDougal formed a 50-50 real estate venture with a young politician, the then-attorney general of Arkansas, Bill Clinton. In this venture called Whitewater, the S&L owner and S&L subsidiaries provided virtually all, perhaps all, the money; the governor-in-the-making provided his name.

Over the years, the company received infusions of cash from the S&L as well as from a small business investment corporation that diverted, allegedly at the governor's request, federally guaranteed funds from a program designed for socially and economically disadvantaged people to the governor's partners and thence, in part, to Whitewater.

Some of these funds were used to pay off personal and campaign liabilities of the governor; some to purchase a tract of land from a company to which the state had just given a significant tax break. Whitewater records have apparently been largely lost. A review of the numerous land transactions, however, raises questions of what happened to the money that came into the company and a review of the president's tax records raises questions about tax deductions that were taken and taxes that were not paid.

In a nutshell, Whitewater is about the arrogance of power — political conflicts of interest that are self-evidently unseemly.

Under the governorship of Bill Clinton, the first lady of Arkansas was hired to represent the S&L before state regulators, the president of the S&L was placed on the state S&L commission, an attorney who represented the S&L was named the state S&L regulator, and the S&L was allowed to operate, despite being insolvent for an extended period, providing millions in loans and investment dollars to insiders and the Arkansas political establishment.

Under the governorship of Bill Clinton, the S&L was allowed to grow 25-fold until federal regulators forced its closing, at which time taxpayers picked up the tab for losses that amounted to approximately 50 percent of the institution's deposit base.

The story of Whitewater is thus part and parcel of the story of the greatest domestic policy mistake of the century — the quarter-trillion-dollar S&L debacle.

In the largest series of bank robberies in history, which precipitated an industry bailout larger than the taxpayers provided Lockheed, Chrysler and New York City times a factor of 10, it is fair to ask: What happened? Who is responsible?

An answer to these inquiries requires an understanding that those accountable are not only a few negligent and corrupt S&L owners, but attorneys, accountants, state and federal legislators, regulators and assorted public officials. As wide-ranging as the responsibility is, however, it is a mistake to be so glassy-eyed as not to seek lessons for the future through a demand for individual accountability for breaches of law and ethics in the past.

Macro-economics aside, public responsibility for the S&L debacle is of a tripod nature, involving: 1) the conflict-ridden role of Congress in passing loose laws; 2) the ideological mistake of the Reagan administration in urging deregulation in an industry which requires responsible standards: and 3) the culpability of a small number of state governments, such as in California, Texas, Louisiana and Arkansas, which failed to rein in high-flying state-chartered, state-regulated institutions, which because of the federal nature of deposit insurance, precipitated a massive transfer of wealth from states with responsible governments to those without.

In Arkansas, it is impressive how the federal government was obligated to close more than 80 percent of state-chartered S&Ls in the 1980s and how large taxpayer losses were in relation to the state's S&L deposit base. The failure of the Clinton administration in Little Rock to fulfill its responsibility to police state financial institutions had the effect of increasing tax burdens on citizens of Arkansas as well as other states.

While taxpayers at the national level were forced to pick up the tab for the mistakes of politicians in whose elections they could not vote, citizens in states like Arkansas were doubly shortchanged. Not only did they have to share in eventual bailout costs, but when their home-based financial institutions frittered away the hard-earned deposit savings of their state to insiders, fewer resources were made available to potential homeowners and minority entrepreneurs.

What the Keating Five scandal was all about was the attempt of an S&L owner to compromise through political contributions significant political players, in this case five senators, to influence regulators to keep an insolvent, corruptly run institution from being closed. What makes Gov. Clinton's involvement with the breaching of the vaults of an Arkansas S&L philosophically at least equal to, but in reality more troubling than, the Keating model is that not only did the institution's management organize conflict-rid-

WT 3/8/94

James A. Leach of Iowa is the ranking Republican member of the House banking committee. This piece is adapted from a speech he first delivered March 4 before the 42nd Ward Regular Republican Organization in Chicago, a slightly different version of which he delivered on the floor of the House yesterday.

den fund-raising endeavors for the key politician in the state, but through Whitewater it put the governor in a compromising personal finance position as well

What is remarkable is the hypocrisy of the circumstance. Time after time in the 1980s, alleged defenders of the little guy in American politics found themselves advancing the interest of a small number of owners of financial institutions which were run as private piggy banks for insiders. The intertwining of greed and ambition turned democratic values upside down.

In our kind of democracy, ends simply don't justify means. Just as a conservative, who may despise government, has no ethical right not to pay taxes, a liberal has no ethical basis to put the public's money in his own or his campaign's pocket just because he may have the arrogance to believe he is advancing a political creed that is in the public's interest

Why does all this matter?

Perhaps it would be appropriate to paraphrase Ev Dirksen a few thousand here and a few thousand there and pretty soon it adds up to a real scandal. Put another way, an ethical lapse here and an ethical lapse there and pretty soon it adds up to a real character deficit

I have never known anyone in public life better able to put embarrassing episodes behind him than Bill Clinton Accordingly, I couldn't have been more surprised by the discombobulation of the administration at the minority's restrained request last November for hearings and full disclosure

As in most serious public scandals, cover-ups can prove as troubling as the crime

The revelations of the past few days that officials of the Department of the Treasury and Resolution Trust Corporation briefed key White House aides on potential legal actions that independent regulatory agencies might be obligated to take against the president and first lady subvert one of the fundamental premises of American democracy — that this is a country of laws and not men

In America process is our most important product No individual, whatever his or her rank, is privileged in the eyes of the law No public official has the right to influence possible legal actions against himself or herself For this reason, agencies of the government as well as the White House have precise rules that govern their employees. Prohibitions against giving preferential treatment to an individual, losing independence or impartiality, making decisions outside official channels are standard and have patently been violated.

Seldom have the public and private ethics of lawyers in the White House and Executive Branch departments and agencies been so thoroughly devalued.

Can a president credibly rail against Michael Milken values if he has himself benefitted from Milkenesque deal-making?

It is no surprise that Special Counsel Robert Fiske Jr. initiated March 4 a series of subpoenas reaching into the White House. What these subpoenas indicate is the movement of an investigation from possible illegal acts committed by a president prior to taking office to possible illegal actions committed in office Obstruction of justice is now clearly at issue

It is also no surprise the special counsel has re-opened the investigation of the suicide of Vincent Foster, the deputy White House counsel There are simply too many questions with too few answers

The point of all this is that there is a disjunction in this administration between public policy and private ethics Americans abhor privilege, hypocrisy gnaws at the American soul, it leaves a dispiriting residue of resentment

Can, for instance, a president credibly rail against Michael Milken values if he has himself benefitted from Milkenesque deal-making?

Can a president credibly ask the people to pay taxes, let alone raise them, if he refuses to pay his own fair share?

Can a president credibly espouse open government if he applies a hide-and-seek standard to his own actions?

Can a president ask others to play by the rules — i.e., obey the law — if he doesn't play by them himself?

Can a president credibly advance an ethic of national service if his own model is one of self-service?

Can a president credibly advocate campaign reform if his own campaign has been sullied by illegal contributions from an S&L, which, with its failure, had the effect of causing deferred federal financing of a gubernatorial election?

Can a president credibly lead an ethical society if he doesn't set an ethical standard?

Can, in short, a servant of the people put himself above the people in personal and public ethics?

This is not to say the president is wrong on all issues: nor that the Democratic Party doesn't have some thoughtful models of integrity — Sens. Bill Bradley, Dale Bumpers, Paul Simon and Daniel Patrick Moynihan leap to mind, as do many of my colleagues in the House — Don Edwards, Sid Yates, Neal Smith, Ron Dellums, Henry Gonzalez, Tony Beilenson, Dan Glickman, Bill Richardson, Tim Penny, John Lewis, Floyd Flake, to name a few.

But it is to suggest that it is no coincidence that the word "trust" appears in the nation's motto as well as in the names of so many financial institutions. Both our political and financial systems depend on the trust of those whom they serve. The American people need to be able to count on the integrity of the institutions and processes that structure their lives, just as they need to have confidence in the probity of the individuals who lead and control these institutions and processes.

While government derives its original legitimacy from the consent of the governed, it can maintain that legitimacy only if the governors operate under the same ethics and rules of conduct as the governed.

Finally, a personal note. Some have asked why a mainstream Republican like myself would lead an investigation so awkward for the president. All I can say is that ethics is not an issue of the left, right or center. It is an American concern relating to the fabric and foundation of our society. As for motivation, I would simply paraphrase a great American who once carried the Republican banner, not to victory, but nonetheless with honor and integrity: Moderation in the pursuit of truth is no virtue; vigilance in the defense of public ethics no vice.

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U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 18, 1994

The Honorable Henry B. Gonzalez
2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Henry:

As you know, pursuant to the rules of the House the Minority recently requested that certain witnesses testify before the upcoming semiannual appearance of the Thrift Depositor Protection Oversight Board. Given the obvious time constraints that relate to the one day of hearings which under House rules is all the Minority is entitled to receive, the Minority is willing to pare back the number of witnesses it is requesting to the following individuals.

Panel One

1. Mr. David Hale
   c/o Mr. Randy Coleman
   Skokos & Coleman
   3200 TCBY Tower
   425 West Capital Avenue
   Little Rock, Arkansas 72201-3439

Panel Two

1. Mr. Lee Ausen
   Supervisory Investigator
   Criminal Investigator
   Resolution Trust Corporation
   4900 Main Street, Suite 200
   Kansas City, Missouri 64112

2. Mr. Mike Caron
   Senior Investigator
   Resolution Trust Corporation
   4900 Main Street, Suite 200
   Kansas City, Missouri 64112

3. Mr. Ken Foust
   Senior Investigator
   Resolution Trust Corporation
   4900 Main Street, Suite 200

Kansas City, Missouri 64112

4. Mr. L. Richard Iorio
Field Investigative Officer
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

5. Ms. Jean Lewis
Senior Criminal Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, Missouri 64112

6. Mr. Brian McCormally
Senior Deputy Chief Counsel for
Enforcement and Litigation (Central)
Office of Thrift Supervision
8500 West 110th Street, #400
Overland Park, Kansas 66210

7. Mr. Stanley Tate
1175 N.E. 125th Street
North Miami Beach, Florida 33161

Panel Three

1. Ms. Jean Hanson
General Counsel
Department of the Treasury
Room 3000
Washington, D.C. 20220

2. Mr. Harold Ickes
Deputy Chief of Staff
The White House
Washington, D.C. 20500

3. Mr. Bruce Lindsey
Senior Advisor to the President
The White House
Washington, D.C. 20500

4. Mr. Mack McLarty
Chief of Staff
The White House
Washington, D.C. 20500

5. Mr. Bernard Nussbaum
White House Counsel

The White House
Washington, D.C. 20500

6. Ms. Margaret Williams
Chief of Staff
Office of the First Lady
The White House
Washington, D.C. 20500

7. Ms. Patsy Thomasson
Special Assistant to the President
Office of Administration
Old Executive Office Building
Room 178
Washington, D.C. 20500

Panel Four

1. Mr. Jeremy Hedges
c/o Mr. Dean Overstreet, Esq.
Dover and Dixon
425 West Capital Street
Suite 3700
Little Rock, Arkansas 72201

2. Mr. Clayton Lindsey
c/o The Rose Law Firm
120 East Fourth Street
Little Rock, Arkansas 72201

3. Ms. Ricki Stacy
c/o The Rose Law Firm
120 East Fourth Street
Little Rock, Arkansas 72201

As stated in our earlier letter, we are doubtful that certain of these witnesses will accept an invitation to voluntarily testify before the committee. Therefore, we would reiterate our request that letters of invitation be sent as soon as possible so that the Committee will have ample opportunity to consider whether it would be appropriate to issue subpoenas to those who decline to appear voluntarily before the committee.

Thank you for your assistance in this matter.

Sincerely,

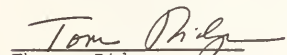
James A. Leach

Bill McCollum

The Honorable Henry B. Gonzalez
Page 4
March 18, 1994

Marge Roukema

Doug Bereuter

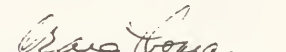

Thomas Ridge

Toby Roth

Alfred McCandless

Richard Baker

Jim Nussle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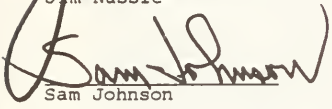
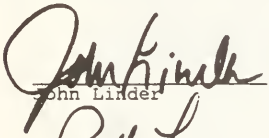

Sam Johnson

Deborah Pryce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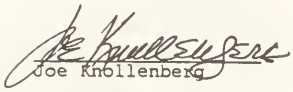
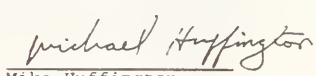

Joe Knollenberg

Rick Lazio

Rod Grams

Spencer Bachus


Mike Huffington

Michael Castle

Peter King

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March 21, 1994

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(202) 225-4247

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
2129 Rayburn House Building
Washington, D.C. 20515

Dear Mr. Chairman:

With disappointment I received your letter of today announcing your intention to postpone the RTC oversight hearings.

Postponement of these hearings by the Majority raises, above anything else, the issue of compliance with the law. Compliance with the law is not a matter of convenience or discretion. The Majority party has no prerogative to capriciously avoid its legal obligations. Hearings mandated by statute were to have occurred by December 3, 1993. It is a statutory obligation of the Majority in the Legislative Branch to conduct on a timely basis RTC oversight; it is the statutory obligation of the Executive to cooperate with Congress and comply with its legal responsibilities. Tragically, the decision to postpone indefinitely hearings appears to be yet another example of Congress not applying the law to itself.

Second is the issue of public disclosure concerning events that transpired related to Madison Guaranty Savings & Loan. Full public disclosure is the only way that this Administration can put this issue behind them. Every time there is a failure to disclose, the public scrutiny of the Madison case heats up. The public wants Congress to get on with the health care debate, welfare reform, crime legislation. The most propitious way to proceed is to address directly the issue of public accountability, putting appropriate witnesses under oath, so the Madison/Whitewater issue can be put behind us.

Here, let me stress the Minority has offered to cooperate fully with the Special Counsel. We have transferred substantial information to his office. We have given him our proposed witness list and offered to support a delay of several weeks in the day of hearings provided under House rules to the Minority to allow him a chance to depose witnesses first. For his part, the Special Counsel, in a meeting on March 17, 1994, with the Minority, said

that he would not impede in any manner Executive Branch testimony and that he would not stand in the way of an RTC oversight hearing. Mr. Fiske also stated that he did not object to the disclosure of copies of documents to Congress, other than White House documents. The existence of a Special Counsel appointed in the Madison case cannot be used as a rationale to avoid providing RTC oversight information to Congress.

As for the question of jurisdictional "trespassing," let me stress that Congress and prosecuting attorneys have differentiated roles, but they are by no means incompatible. In fact, they are generally complementary. Indeed, in the Banking Committee hearings over the past decade on institutions such as Lincoln (Charles Keating) and Silverado (Neil Bush) the Justice Department had tandem investigations underway. Hearings almost always reveal knowledge and perspective that is helpful to prosecutors. It was, after all Senator Ervin's committee that revealed the existence of the Watergate tapes and it was the recent Senate hearing that revealed improper contacts between Executive Branch agencies and the White House. The major recent exception where a prosecutor was undercut by Congress involved the excessive zeal of the majority party to embarrass Presidents Reagan and Bush that caused it to offer immunity to certain witnesses in the Iran Contra probe. But the more general proposition is that constraining a Congressional inquiry has the effect of reducing knowledge, thus reducing prosecutorial discretion.

Congress has a right and obligation under Article I of the Constitution to conduct oversight of the Executive Branch. The Majority's action in avoiding statutorily mandated RTC hearings raises the question of whether the Majority party has the spine to conduct credible oversight of an Administration of the same political party.

Finally, Mr. Chairman, let me stress that the Minority has no intent on casting aspersions on the character of any witness, but it is with regret that I note the breakdown in the comity of the Committee reflected in your letter. I would repeat what I said to you on the House Floor that I hope differences in judgement on this issue do not stand in the way of the legislative business before our Committee.

Sincerely,

James A. Leach
Ranking Member

20TH DISTRICT, TEXAS

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Congress of the United States
House of Representatives
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CHAIRMAN

SUBCOMMITTEES
HOUSING AND COMMUNITY DEVELOPMENT
CHAIRMAN
CONSUMER CREDIT AND INSURANCE
INTERNATIONAL DEVELOPMENT, FINANCE, TRADE, AND MONETARY POLICY

March 21, 1994

FILE REF
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stw

The Honorable James A. Leach
2186 Rayburn HOB
Washington, D.C. 20515

Dear Colleague:

Upon my return from my District, I saw your letter, apparently delivered late Friday.

As you know, I committed to the Special Counsel, who you, not I, insisted be named, not to trespass on the area of his current investigation. Everyone of the listed names indicates you are in wilful disregard of this request, which even the Senate has honored, for you obviously are premeditatedly intending to launch into a prosecutorial or judicial adventure, which as I amply pointed out during the Neil Bush hearing the Banking Committee is not empowered to do. I am attaching a copy of the pertinent record of that hearing.

In view of your obdurate and obstinate refusal to honor the Special Counsel's request, and, in addition, your threats to disrupt or in your words create a "donnybrook", I have no recourse but to postpone the hearing set for Thursday until such a time as you can calmly and dispassionately comply with the statutory hearing.

Since the effective date of FIRREA we have held no fewer than seven statutory oversight hearings. At no time have you or your predecessor made such requests as you are making now. You must not be much interested in getting an accounting of the twenty five billion dollars we voted for RTC last year.

Sincerely,

Henry B. Gonzalez

Henry B. Gonzalez
Member of Congress

Enclosure

SPENCER T. BACHUS, III
6TH DISTRICT, ALABAMA

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May 18, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee On Banking, Finance and Urban Affairs
House of Representatives
2129 Rayburn Building
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to remind you of another approaching deadline regarding the oversight of the Resolution Trust Corporation.

As you are aware, the Thrift Depositor Protection Oversight Board submitted its semi-annual report on April 29 as required by Title V of FIRREA. The statutory requirement also includes the appearance of the Oversight Board before the Committee on Banking, Finance and Urban Affairs "not later than 30 days after submission of the semiannual reports." The Committee has not yet fulfilled this requirement from last year. With the failure to hold a hearing on or before May 31, 1994, a third missed deadline and a third violation of the law will occur.

Tuesday, in court documents, John L. von Seggern, Acting Director of Congressional Affairs for the Office of Thrift Supervision, acknowledged the following report dates and the failure to have hearings in conjunction with these reports: April 30, 1993; October 29, 1993 and April 29, 1994. It was with great distress that we read, also in court documents, that your staff director said that a hearing will not be scheduled before the May 31 deadline. The Clinton Administration has never appeared before the Committee on Banking, Finance and Urban Affairs on an oversight report produced by their Administration officials.

Six months after providing the RTC with $18.2 billion you have not allowed this Committee to meet its statutory obligation for oversight of the RTC. There is no head of the agency, and the agency is not subject to the Congressional appropriations process. Clearly there is a lack of accountability to the taxpayers. In no other instance is there such a significant taxpayer commitment to an operation that lacks Congressional oversight and an organization that does not have a Senate confirmed presidential appointee.

Once again, we call on you to uphold the letter and the intent of the FIRREA legislation this Committee passed and hold Oversight hearings by the May 31 deadline. That this Committee would allow three deadlines to pass would be unthinkable.

Sincerely,

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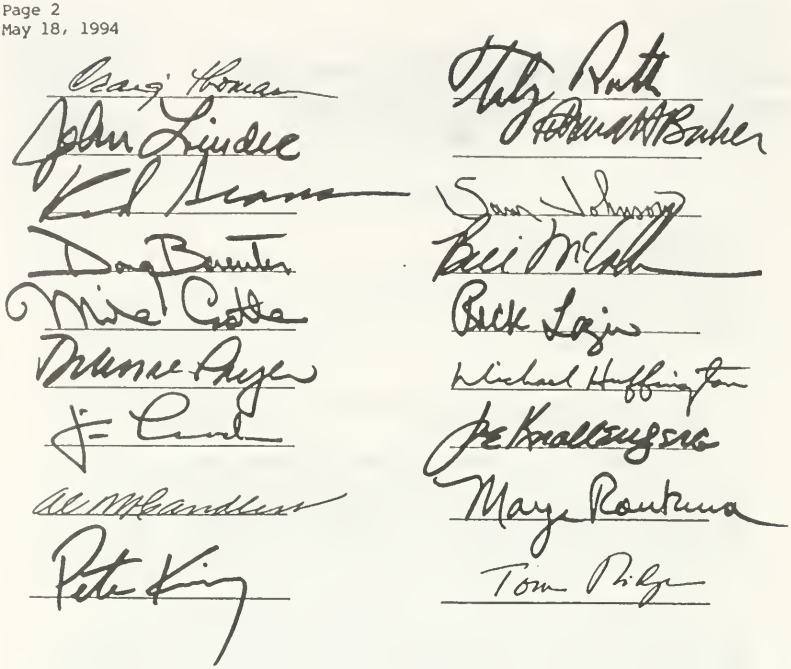

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ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

July 27, 1994

Mr. Robert B. Fiske, Jr.
Office of the Independent Counsel
Two Financial Centre Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

Dear Mr. Fiske:

As you know, the Banking Committee has begun its hearing on the Washington phase of the so-called Whitewater affair pursuant to the House Resolution 394 and the bipartisan House Leadership agreement.

In your July 7, 1994 letter to me you state that you, "have completed [your] investigation into the circumstances surrounding a conversation between Jean Lewis and April Breslaw on February 2, 1994." You further state that testimony from various Resolution Trust Corporation employees, including Ms. Lewis, with respect to certain matters concerning the Kansas City Office could potentially compromise your investigation.

It is my intention to invite Ms. Lewis and perhaps other RTC employees to testify before the Committee as part of its hearing on the Washington phase. In order to comply with the House Resolution 394 and honor my assurance to you that the Committee would not take, "any action that might interfere with, compromise or otherwise hinder your investigation...", please define and describe as precisely as possible those matters as to which Ms. Lewis and other RTC employees can testify without compromising your investigation.

I look forward to your prompt reply and thank you for your cooperation.

Sincerely,

Henry B. Gonzalez
Chairman

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(202) 225-4247

June 29, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance, and
Urban Affairs
2413 Rayburn House Office Building
Washington, DC 20515

Dear Henry:

It is my understanding from press accounts and subsequent staff meetings that you have tentatively scheduled limited Whitewater hearings beginning on July 26, 1994 and have requested certain witnesses and documents for these hearings. As you know, no effort was extended to consult with the Minority prior to these announcements. Thus, it should be no surprise to you that the Minority finds perplexing your efforts to further narrow the already narrow approach approved by the Democratic Leadership of the full House.

The Banking Committee has a long history of comprehensive investigations. Yet, the hearings outlined by your staff would appear unprecedentedly restrictive. Whereas the leadership agreement would allow a public airing of five percent or so of the Madison/Whitewater circumstance, your initial witness list and document request reducee it to only two or three percent.

At the heart of the Washington phase of the investigation is the total interrelationship of the White House with various executive departments which include regional offices. The United States Government is not wholly situated in Washington, D.C. Thus, it was surprising that your original witness list and document request did not include representatives from Washington and regional RTC, OTS, and Justice Department offices where primary responsibility for civil and criminal investigations surrounding failed institutions resides. Accordingly, the Minority respectfully requests all internal RTC, OTS, Justice, Treasury, and White House documentation in any form on Madison. This would include all communications at and with the district offices. Any communication related to Madison is clearly relevant to the Committee's inquiry.

In this regard, as you stated in your June 17, 1994 letter to the Speaker, any hearing on the contacts among the White House, Treasury, and RTC officials that does not address the failure and resolution of Madison Guaranty "will be seen as arbitrary, incomplete and not credible." For this very reason, the Minority remains disappointed that the Committee has not held RTC oversight hearings as prescribed by statute. Such hearings would clearly have in their scope a fuller airing of the Whitewater matter than those currently being proposed by you.

Even though the leadership agreement instructs the Banking Committee to investigate the death of Mr. Foster, it appears that you have placed this topic off limits. I am personally not a forensic criminal expert and can probably add little to the investigation of Mr. Foster's death, but it is appropriate for the Committee to assess whether the actions taken by White House officials in removing documents from his office were triggered by concerns over embarrassing circumstances and ongoing civil and criminal investigations.

Therefore, it is imperative that the Committee request all documents found in or removed from Mr. Foster's office and not just the documents related to your protectively narrow request regarding the "handling of documents within Vincent Foster's office." Knowing the contents of these document is essential to any meaningful understanding of why they were removed by White House officials. In addition, any credible investigation into Mr. Foster's death must include queries not only into the handling of these documents, but also the entirety of the record of the Park Police investigation into Mr. Foster's death and Justice Department review thereof.

House Democratic Leadership has repeatedly indicated that hearings on Madison\Whitewater would come under the rubric of House Rule XI which entitles the Minority to a day of hearings with its own designated witnesses. In this regard, the Minority's preliminary witness list for its day of hearings pursuant to Rule XI will be provided soon. It is my understanding that based upon staff contacts with your office, that all of the witnesses on your initial witness list have agreed to appear without subpoenas. However, this may not be the case with some of the witnesses the Minority intends to call. Therefore, it may be necessary for the Committee to meet to issue subpoenas.

Finally, in addition to the necessity of subpoenaing witnesses, there are a series of unresolved issues that relate to the upcoming hearings. These include whether witnesses should be sworn in as required of Neil Bush and Clark Clifford in past Banking Committee investigations, whether witnesses should be deposed by staff before

the hearing as in past Committee investigations, and whether witnesses will appear individually or on a panel. I have instructed Tony Cole of my staff to meet with your staff director, Kelsay Meek, for clarification of these issues.

Mr. Chairman, you can see that the Minority is frustrated with the processes and procedures the Committee has established. Nonetheless, I have instructed my staff to work as constructively as possible with your staff to insure that the truth is probed in as responsible and as forthright manner as possible.

Sincerely,

JAMES A. LEACH
Ranking Member

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COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

June 29, 1994

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
2186 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Leach:

I have received your letter of June 29, 1994 related to the Committee's upcoming Whitewater hearings. First, with regard to scope limitations, let me remind you that on March 22, 1994 you voted "yes" on H. Res. 394, which in part, states,

> "The hearings should be structured and sequenced in such a manner that in the judgement of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr."

The plan I outlined for the hearings reflects the bipartisan resolution. While I have expressed concern with certain aspects of the scope, I am attempting to respect the limitations imposed by H.Res. 394, and by the joint leadership. I trust that this is also your desire, but frankly, your letter appears to suggest a desire to exceed the limits agreed to by the bipartisan leadership.

Secondly, you complain about inadequate input into the hearings. You should know that on the same day that the request letters were delivered to potential witnesses, your staff was immediately informed and asked to provide additional suggestions. I have yet to receive such input.

Regardless of our differences, I remain hopeful it will be possible for the Committee to plan and conduct its hearings in keeping with the bipartisan leadership agreement.

Sincerely,

Henry B. Gonzalez
Chairman

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June 30, 1994

RECEIVED
JUN 30 1994
Committee on Banking, Finance & Urban Affairs

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
2413 Rayburn House Office Building
Washington, DC 200515

Dear Henry:

In preparation for Banking Committee's upcoming limited hearings into the Madison\Whitewater affair, we submit to you, pursuant to House and Committee rules, the Minority's preliminary witness list for the Minority's day of hearings.

Panel I RTC Washington Officials

Mr. William Roelle
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Ms. Ellen Kulka
General Counsel
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Mr. Jack Ryan
Acting Chief Executive Officer
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Ms. April Breslaw, Esq.
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Panel II Regional RTC & OTS Officials

Mr. Lee Ausen
Supervisory Investigator
Criminal Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, MO 64112

Mr. Mike Caron
Senior Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, MO 64112

Mr. Ken Foust
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, MO 64112

Mr. Richard Iorio
Field Investigative Officer
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, MO 64112

Ms. Jean Lewis
Senior Criminal Investigator
Resolution Trust Corporation
4900 Main Street, Suite 200
Kansas City, MO 64112

Mr. Brian McCormally
Senior Deputy Chief Counsel for
Enforcement and Litigation (Central)
Office of Thrift Supervision
8500 West 110th Street, #400
Overland Park, KS 66210

Panel III Department of Justice

Ms. Paula Casey
United States Attorney
U.S. Attorney's Office
5th Floor, TCBY Building
425 West Capital Avenue
Little Rock, AR 72201

Mr. Webster Hubbell
Former Associate Attorney General
1215 19th Street, NW
Washington, DC 20036

Mr. Phil Heymann
Former Deputy Attorney General
Griswold Hall #309
1525 Massachusetts Avenue
Cambridge, MA 02138

Mr. Fletcher Jackson
Assistant U.S. Attorney
U.S. Attorney's Office
5th Floor, TCBY Building
425 West Capital Avenue
Little Rock, AR 72201

Mr. Donald B. Mackay
Trial Attorney
Fraud Section, Criminal Division
U.S. Department of Justice
P. O. Box 28188, Central Station
Washington, DC 20038

Panel IV Other Witnesses

Captain Charles Hume
U.S. Park Police Headquarters
1100 Ohio Drive, SW
Washington, DC 20242

Mr. James Lyons, Esq.
1200 13th Street
Suite 3000
Denver, CO 80202

Mr. Jack Palladino
Palladino & Sutherland
1482 Page Street
San Francisco, CA 94117

Mr. William Sessions
Former Director
Federal Bureau of Investigation
3920 Argyle Street, NW
Washington, DC 20011

Ms. Betsey Wright
The Wexler Group
1317 F Street, NW
Suite 600
Washington, DC 20004

C.W.
Unnamed Confidential Witness as identified
in the Independent Counsel's Report

Other Witnesses to be added to the White House Panel

Mr. William Kennedy
Associate White House Counsel
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Mr. David Watkins
Former Assistant to the President
for Management and Administration
c/o Ms. Tracy Beckett
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Some of the witnesses listed above may not appear voluntarily, therefore, it may be necessary for the Committee to meet to issue subpoenas.

In addition, the Committee will want to interview before the hearings a number of other individuals as potential witnesses. The Minority looks forward to coordinating with you in this area. Finally, the Minority reserves the right to request additional witnesses up to and until the conclusion of the hearings.

Sincerely,

James A. Leach

Bill McCollum

Marge Roukema

Doug Bereuter

The Honorable Henry B. Gonzalez
Page 5
June 30, 1994

Thomas Ridge

Toby Roth

Alfred McCandless

Richard Baker

Jim Nussle

Craig Thomas

Sam Johnson

Deborah Pryce

John Linder

Joe Knollenberg

Rick Lazio

Rod Grams

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WASHINGTON, DC 20515-6050

July 8, 1994

Honorable James Leach
2186 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Leach:

I am writing in reference to Independent Counsel Fiske's refusal to testify before the Banking Committee to explain scope limitations and his findings related to the Washington phase of the so-called Whitewater Affair. I assume you share my disappointment with Mr. Fiske's decision and I have asked him to reconsider.

While it is imperative that the Committee respect the limits contained in House Resolution 394, and the bipartisan House Leadership agreement, only Mr. Fiske, the preeminent and undisputed authority on these issues, can properly explain his scope limitations and the findings of the completed portion of his probe.

I hope you will join me in asking Mr. Fiske to reconsider his position and I look forward to working with you to ensure that the Committee's Whitewater hearings are as comprehensive as possible without jeopardizing Mr. Fiske's investigation.

Sincerely,

Henry B. Gonzalez
Chairman

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ONE HUNDRED THIRD CONGRESS
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WASHINGTON, DC 20515-6050

July 8, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding Special Counsel Fiske's refusal to testify before the Banking Committee. It is my intent to write to Mr. Fiske to express my concerns about his unwillingness to testify as well as his placing restraints on our Committee's witness selection.

Sincerely,

James A. Leach
Member of Congress

JL:bt

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July 11, 1994

The Honorable James A. Leach
The U.S. House of Representatives
2186 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Leach: Colleague

The Committee on Banking, Finance and Urban Affairs will hold hearings on the Washington phase of the so-called Whitewater affair beginning July 26, 1994. During the past year, under your direction, the Minority staff has gathered information on the Whitewater affair, and I have freely permitted the use of taxpayer resources for that purpose.

In order to assist the Committee in preparing for the upcoming hearings, I respectfully request that you provide copies of all information in your possession, or under your control, regardless of format (e.g. agency records, interview notes, tape recordings, etc.) related to the Minority's probe of Madison Guaranty Savings and Loan, Whitewater Development Corporation and related entities (the so-called Whitewater affair).

Please deposit this material in Room 2220 Rayburn House Office Building, by the close of business, July 15, 1994.

The Committee looks forward to your cooperation and timely response.

Sincerely,

Henry B. Gonzalez
Chairman

HBG:dk

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WASHINGTON, DC 20515-6050

July 21, 1994

The Honorable Henry B. Gonzalez
2413 Rayburn House Office Building
Washington, DC 20515

re: Upcoming Whitewater Hearings

Dear Mr. Chairman:

I am writing on behalf of the Republican Members of the Banking Committee regarding uncertainties which remain related to next week's Whitewater hearings.

As you know, no witnesses have yet been formally invited to testify. We understand the intention may be to invite Lloyd Cutler as the lead witness and to limit next week's hearings to White House witnesses. We also understand the intent may be to call the witnesses from the White House in panels, but no decision has been made on how these panels will be configured. Finally, it is our understanding that Mr. Cutler may deliver the results of his internal investigation into White House - Treasury contacts, but we have not received any indication of when the report will be made available to us.

Meaningful preparation for these hearings necessitates confirmation of the Majority's intentions into who and how it intends to call its witnesses. We, of course, reserve the right to call witnesses under Rule XI, some of whom may be part of your witness list as well.

In order to proceed in a coherent and understandable manner, certain hearing procedures like those used in prior similar investigations should be adopted: (1) key individuals should be questioned alone; (2) the introductory portion of the questioning of key witnesses should be conducted by counsel; and (3) a limited number of members from each side of the aisle should be assigned principle responsibility for questioning the witnesses and be allotted blocks of time consistent with their importance as witnesses. The five-minute rule should not be strictly applied under these circumstances

While these procedures would be novel for the Banking Committee, so are these hearings. By adapting our rules to accommodate these circumstances we will avoid the criticism of having conducted superficial hearings which do not illuminate the considerable facts surrounding these White House-Treasury contacts and of having failed in our responsibility to the American public.

Thank you for your consideration of these concerns. We look forward to hearing from you in the near future.

Sincerely,

JAMES A. LEACH
Ranking Member

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July 27, 1994

JAMES A. LEACH, IOWA
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(202) 225-4247

The Honorable James A. Leach
The U.S. House of Representatives
2186 Rayburn Building
Washington, D.C. 20515

Dear Mr. Leach:

You have previously relayed to me a conversation between you and Independent Counsel Robert Fiske in which Mr. Fiske stated that the Committee could receive testimony addressing the circumstances surrounding a conversation between Jean Lewis and April Breslaw on February 2, 1994 without compromising the Independent Counsel's investigation. You assured me that you intended to abide by any request made by Mr. Fiske as to the permissible scope of such testimony. I, too, have assured Mr. Fiske that the Committee will not take any action that could interfere with, hinder, or compromise his investigation.

It is my intention to invite Ms. Lewis and other employees of the RTC to testify before the Committee as part of its hearing into the Washington phase of the so-called Whitewater affair. I have asked Mr. Fiske to describe as precisely as possible the permissible parameters of such testimony in order to honor our commitment to him. A copy of that letter is attached.

Sincerely,

Henry B. Gonzalez
Chairman

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July 21, 1994

The Honorable James A. Leach
Member of Congress
2186 Rayburn House Office Building
Washington, DC 20515

1

Dear Colleague:

I just received your letter regarding the procedures the Committee will follow in connection with the so-called Whitewater hearings.

With regard to witnesses, the Committee generally has called witnesses in the fashion best suited to the situation. Far more often than not, witnesses are called in panels, in order to permit the Committee to obtain the broadest information possible. On occasion, a single witness is called, usually when the rank of the witness requires such a courtesy. You can be assured that I will consider your views on this, but see no need to call witnesses one at a time without exception since we are not conducting a trial or a prosecution.

With regard to the questioning of the witnesses, our rules do not provide for and the Committee has never permitted staff interrogation, and I feel that this would be a bad precedent, since hearings are for the purpose of providing information required by the Members, not the staff.

Finally, concerning the allocation of time, your suggestion is indeed novel and unfortunately contrary to the long established rules of the Committee. The procedure you suggest would, I fear, be objected to by Members who would be precluded from participation or required to accept an inferior role. In addition, the five minute rule is required by House Rule XI, which does not provide for a waiver of the rule. As you know, a Committee may not waive a House rule.

Sincerely,

Henry B. Gonzalez
Chairman

HBG:sst

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FOOL FOR SCANDAL

How the *Times* got Whitewater wrong

By Gene Lyons

The Great Whitewater Political Scandal and Multimedia Extravaganza, now on the verge of entering its second smash year, has always played very differently here in Little Rock than in, say, Washington, New York, or Los Angeles. To read the great mettopolitan newspapers, observe the grave demeanor of network TV anchors, and heed the rhetoric of the politicians and radio talk-show hosts who have made the issue their own, one would gather that the republic teeters on the brink of a constitutional crisis. The dread "gate" suffix of Nixonian legend has been applied. Melodramatic charges of bribery, corruption, cover-up, even of suicide and murder, fill the air (although at the time of this writing the focus has shifted to "improprieties" in Washington). There has even been loose talk of presidential impeachment.

All this over a failed $200,000 dirt-road real-estate deal up in Marion County and a savings and loan flameout that cost taxpayers a lousy $65 million—the 196th most costly S&L failure of the 1980s, nationally speaking, and one that accounted for about 7 percent of the roughly $1 billion tab bankrupt institutions ran up right here in little old Arkansas. For the longest time, it was hard for most Arkansans to take all the bellyaching over Whitewater and Jim McDougal's Madison Guaranty very seriously.

Apart from a superficial acquaintance with both Clintons shared by thousands of Arkansans, I know none of the characters in the Whitewater saga personally. (My wife gave Clinton a little bit of money and went to Wisconsin for a week on his behalf as an "Arkansas Traveler" at her own expense. But that's her business.) What little I have written over the years has been mostly critical. Indeed, I cherish a videotape of myself in a short-lived guise as the poor man's Andy Rooney on a Little Rock TV station back in 1988 predicting that the governor had won his last election.

It angers me, though, that Whitewater has brought back all the old stereotypes, what the *Arkansas Times* magazine once called the image of "the Barefoot State." Barefoot, hell. To hear the national press go on about it, under Clinton poor little Arkansas became a veritable American Transylvania: a dark, mysterious netherworld populated by a mob of ignorant peasants and presided over by a half dozen corrupt tycoons in collusion with the Clintons as the Count and Countess Dracula. Scarcely a Whitewater story has appeared in the national press that hasn't made references to the state's uniquely "incestuous" links between business, government, and the legal establishment—concepts utterly foreign to places like Washington, D.C., and New York City, of course.

Even Arkansans long weary of Clinton's amoeba-like style of leadership—his indecisiveness, his downright genius for equivocation, his habit of launching more trial balloons than the National Weather Service—can't recognize the caricature of either the man or his milieu in the national press. And we're not just talking about such off-the-wall publications as *The American Spectator* or the *Wall Street Journal* editorial page. In *The New Republic*, author L. J. Davis accused Bill and Hillary Clinton of a nefarious plot to void Arkansas usury limits for the benefit of the First Lady's banker

Gene Lyons writes a column for the Arkansas Democrat-Gazette *and reviews books for* Entertainment Weekly. *He is the author of* Widow's Web *(1993), an account of a celebrated murder in Arkansas. Ernest Dumas helped research this article.*

clients. Problem is, the deed was done through an amendment to the Arkansas constitution by public referendum during the term of Republican Governor Frank White—a banker.

So how did we get here? Well, at the expense of shocking you, dear reader, it all began with the *New York Times*—specifically with a series of much-praised articles by investigative reporter Jeff Gerth: groundbreaking, exhaustively researched, but not particularly fair or balanced stories that combine a prosecutorial bias and the art of tactical omission to insinuate all manner of sin and skulduggery. Accompanied by a series of indignant editorials, Gerth's work helped create a full-scale media clamor last December for a special prosecutor. Testimony in recent Senate hearings showed that the Resolution Trust Corporation's Whitewater investigation began in direct response to the *Times* coverage; the hearings *themselves* resulted in large part from the Clinton Administration's panicky reaction to reporters' queries about the RTC probe, Gerth's among them. Absent the near-talismanic role of the *New York Times* in American journalism, the whole complex of allegations and suspicions subsumed under the word "Whitewater" might never have made it to the front page, much less come to dominate the national political dialogue for months at a time. It is all the more disturbing, then, that most of the insinuations in Gerth's reporting are either highly implausible or demonstrably false.

THE RECEIVED VERSION OF THE WHITEWATER SCANDAL AS IT TOOK SHAPE IN THE PAGES OF THE *NEW YORK TIMES* BEARS ALMOST NO RELATION TO REALITY

Let us return briefly to those thrilling days of yesteryear—specifically the 1992 primary season. On March 8, 1992, Jeff Gerth's initial story about Whitewater appeared on the *Times* front page under the headline CLINTONS JOINED S.&L. OPERATOR IN AN OZARK REAL-ESTATE VENTURE:

> [In 1984], Madison started getting into trouble. Federal examiners studied its books that year, found that it was violating Arkansas regulations and determined that correcting the books to adjust improperly inflated profits would "result in an insolvent position," records of the 1984 examination show.
>
> Arkansas regulators received the Federal report later that year, and under state law the securities commissioner was supposed to close any insolvent institution.
>
> As the Governor is free to do at any time, Mr. Clinton appointed a new securities commissioner in January, 1985. He chose Beverly Bassett Schaffer.
>
> In interviews, Mrs. Schaffer, now a Fayetteville lawyer, said she did not remember the Federal examination of Madison, but added that in her view, the findings were not "definitive proof of insolvency."
>
> In 1985, Mrs. Clinton and her Little Rock law firm, the Rose firm, twice applied to the [Arkansas] Securities Commission on behalf of Madison, asking that the savings and loan be allowed to try two novel plans to raise money.
>
> Mrs. Schaffer wrote to Mrs. Clinton and another lawyer at the firm approving the ideas. "I never gave anybody special treatment," she said.
>
> Madison was not able to raise additional capital. And by 1986 Federal regulators, who insured Madison's deposits, took control of the institution and ousted Mr. McDougal. Mrs. Schaffer supported the action.

Gerth's original story was recently praised in the *American Journalism Review* as containing 80 to 90 percent of what the press knows about Whitewater today. Rival reporters complained, though, that the 1992 article lacked a "nut paragraph" summing up what the Clintons had done wrong and why it was important.

The insinuations became clearer in subsequent Gerth stories in the fall of 1993.* Following the *Washington Post*'s October 31, 1993, revelation that the RTC had made a referral to the Justice Department naming the Clintons as (perhaps unwitting) beneficiaries of possible criminal actions, Gerth and Stephen Engelberg, another *Times* reporter, wrote lengthy articles that appeared on November 2 and December 15. The first dealt mainly with the still-unsubstantiated claims of former Municipal Judge David Hale that Bill Clinton urged him to commit federal bank fraud by lending $300,000 to Jim McDougal's wife, Susan. (Gerth and Engelberg neglected to point out that David Hale—no Clinton intimate but a courthouse pol first appointed by Republican Governor Frank White—had set up thirteen dummy companies with the same mailing address as his own, evidently without pressure from the Clintons.) Elsewhere, the November 2 piece was pretty much a rehash of the original 1992 article, with a few characteristically misleading tidbits added for emphasis. "By 1983, Mr. McDougal's bank was in trouble with Arkansas regulators," the *Times* informed readers. "The state's banking commissioner, Marlin S. Jackson, ordered the bank to stop making im-

*By this time, recall, the stakes were incontestably higher—Bill Clinton was President of the United States; politically damaging memos by one Jean Lewis, an employee in the ostensibly neutral RTC, had been leaked to Republican Congressman Jim Leach and others; and right-wing outfits like Floyd Brown's Citizens United had begun to churn out what Trudy Lieberman in the *Columbia Journalism Review* called "a steady stream of tips, tidbits, documents, factoids, suspicions and story ideas for the nation's press."

prudent loans. Mr. Jackson, a Clinton appointee, said in an interview last year that he told Mr. Clinton at the time of Mr. McDougal's questionable practices." Now, what Jackson told the *Los Angeles Times* (which also turned the tale inside out but did give fair context) was that the governor had urged him to ignore politics and be the "best banking commissioner you can [be]." Jackson had acted on this suggestion, with the result that the Clintons' own note was called.

The real bombshell was Gerth and Engelberg's December 15, 1993, story, which all but accused both Clintons, Jim McDougal, and Beverly Bassett Schaffer of criminal conspiracy to keep Madison Guaranty afloat regardless of the cost. But the implication in that account that has shown the most staying power involves a supposed quid pro quo involving Hillary Rodham Clinton. It centers on an April 1985 political fund-raiser Jim McDougal held and the suspicion that he may have illegally siphoned Madison Guaranty funds into Bill Clinton's campaign coffers. "Just a few weeks after Mr. McDougal raised the money for him," the *Times* noted darkly, "Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock."

"The search for new capital," Gerth and Engelberg continued,

> took Madison to the offices of Mrs. Schaffer, who had the ultimate authority to approve any such stock sale. One of the lawyers employed by Madison to argue its case before the state regulators was Mrs. Clinton.
>
> Within weeks, Mrs. Schaffer wrote a letter to Mrs. Clinton giving preliminary approval to Madison's stock plan.
>
> The sale never went forward. But this fall the [RTC] asked the Justice Department to examine a number of Madison's transactions, and federal officials say the state's approval of the stock plan was among the matters raised by investigators.

The *Times* also quoted McDougal to the effect that Bassett Schaffer was his handpicked choice as Arkansas securities commissioner.

The theory implicit in Gerth's *Times* stories may be summarized as follows: when his business partner and benefactor McDougal got in trouble, Bill Clinton dumped the sitting Arkansas securities commissioner and appointed a hack, Beverly Bassett Schaffer. He and Hillary then pressured Bassett Schaffer to grant McDougal special favors—until the vigilant feds cracked down on Madison Guaranty, thwarting the Clintons' plan. This is the Received Version of the Whitewater scandal as it first took shape in the pages of the *New York Times*—what all the fuss is ultimately about. And it bears almost no relation to reality.

The distortions begin with the headline of the original Gerth story in the *Times*: CLINTONS JOINED S.&L. OPERATOR IN AN OZARK REAL-ESTATE VENTURE. This headline was misleading because when Bill and Hillary Clinton entered into the misbegotten partnership to subdivide and develop 230 forested acres along the White River as resort property in 1978, Jim McDougal wasn't involved in the banking and S&L businesses at all. He was a career political operative—a former aide to Senators J. William Fulbright and John L. McClellan. In the meantime, McDougal had done well in the inflation-fueled Ozarks land boom of the Seventies. But it wouldn't be until five years later—by which time the Whitewater investment was already moribund—that he bought a controlling interest in Madison Guaranty.

Details, details. Gerth wrote that McDougal

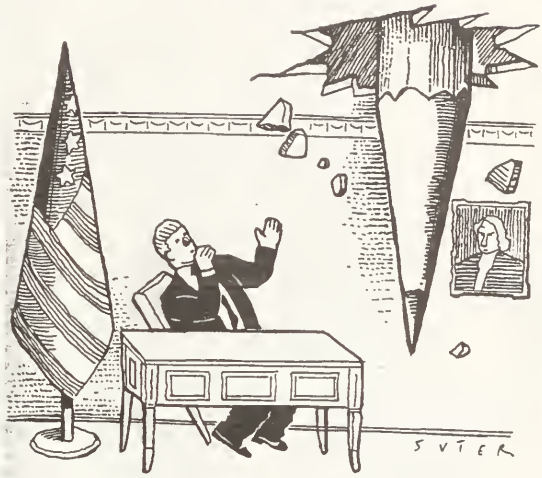

Illustration by David Suter

quickly built Madison "into one of the largest state-chartered associations in Arkansas." Wrong again. Among thirty-nine S&Ls listed in the 1985 edition of Sheshunoff's *Arkansas Savings and Loans*, Madison ranked twenty-fifth in assets and thirtieth in amount loaned. These errors of detail might be forgiven if Gerth had in fact uncovered a conspiracy between the Clintons and the Arkansas securities commissioner to treat Jim McDougal leniently. The appearance of conspiracy, however, was created not by the actions of the alleged parties but by selective reporting.

Consider, for example, Gerth's treatment of the appointment of Beverly Bassett Schaffer as Arkansas securities commissioner in his March 8, 1992, article: "After Federal regulators found that Mr. McDougal's savings institution, Madison Guaranty, was insolvent, meaning it faced possible closure by the state, Mr. Clinton appointed a new state securities commissioner. . . ." The clear implication is that in *response* to a Federal Home Loan Bank Board report dated January 20, 1984, suggesting that Madison might be insolvent, Clinton in January 1985 installed Bassett Schaffer as Arkansas securities commissioner for the purpose of protecting McDougal.

So how come he waited an entire year? In reality, the timing of Bassett Schaffer's appointment had nothing to do with the FHLBB report, which there's no reason to think Clinton knew about. (The Clintons had no financial stake in Madison Guaranty, although that, too, has been obscured.) The fact is that Bill Clinton *had* to find a new commissioner in January 1985 because the incumbent, Lee Thalhiemer, had resigned to reenter private practice. Appointed by Republican Governor Frank White and kept on by Clinton, Thalhiemer says he told Gerth this in an interview, and describes the *Times* version as "unmitigated horseshit."

IF MCDOUGAL SHOVED ANY FUNNY MONEY IN THE CLINTONS' DIRECTION, THE ARKANSAS SECURITIES DEPARTMENT SURE FOUND AN ODD WAY TO REWARD HIM

Bassett Schaffer strenuously insists that to this day she has never met McDougal, never heard Bill Clinton mention his name, and does not believe he influenced her appointment—and told Gerth so. She had actively sought the job from the moment she learned that Thalhiemer was quitting (he confirms recommending her to Clinton). She herself had volunteered in Clinton's 1974 congressional campaign and had worked for him full time on the Arkansas attorney general's staff while in law school. And her brother, Woody Bassett, also a Fayetteville attorney, was a personal friend and supporter of Bill Clinton.

The claim that Jim McDougal was behind Bassett Schaffer's appointment rests entirely on the word of McDougal himself, a victim of manic-depressive illness whose lawyer filed an insanity plea in a 1990 bank-fraud trial in U.S. District Court, in which McDougal was ultimately found not guilty. In his original 1992 article, Gerth had acknowledged McDougal's history of emotional illness but described him as "stable, careful and calm." By 1993 mention of those difficulties had all but vanished from the pages of the *New York Times*—despite the fact that the supposed recipient of Bill Clinton's largess was living in Arkadelphia in a trailer on SSI disability payments. Also unmentioned, for what it's worth, was that McDougal had long since recanted his accusations against Clinton and taken to blaming the whole mess on Republican partisans in the RTC.

But did Bassett Schaffer help McDougal anyway? Did the Arkansas Securities Department, as Gerth asserts, have proof of Madison Guaranty's insolvency in early 1985? Did Bassett Schaffer have the legal authority to shut it down?

Consider the allegation that Madison was insolvent and Bassett Schaffer failed to respond. True, the 1984 FHLBB report did argue that Madison Guaranty had overestimated its profit from contract land sales—not including Whitewater—by $564,705. "Correcting entries will adversely effect [sic] net worth and result in an insolvent position." But is this proof of legal insolvency? Hardly. In the first place (although Gerth neglected to point this out), the title page of the document from which the *Times* reporter took the one brief passage he cited stipulated that it had "been prepared for supervisory purposes only and should not be considered an audit report." More significantly, federal auditors later accepted Madison's position on contract land sales, and the putative adjustments were never made. Indeed, on June 26, 1984, six months after the report Gerth cited, and six months *before* Bassett Schaffer took office, Madison Guaranty's board of directors met in Dallas with state and federal regulators. They agreed to enter a formal "Supervisory Agreement" with the FHLBB that spelled out detailed legal and accounting procedures designed to help the S&L improve its financial position. In a letter dated September 11, 1984, the FHLBB gave Madison formal approval of a debt-restructuring plan that "negat[ed] the need for adjustment of $564,705 in improperly recognized profits" and dropped all references to insolvency. Arkansas officials also called Gerth's attention to an independent 1984 audit that also refuted Madison's insolvency. In his story the reporter neglected to mention either document.

If McDougal shoved any funny money in the Clintons' direction—either through Whitewater or an April 1985 campaign fund-raiser—the Arkansas Securities Department sure found an odd way to reward him. No sooner did Bassett Schaffer receive the FHLBB's 1986 report on Madison than she recommended stringent action. On July 11, 1986, she and a member of her staff flew to Dallas to meet with FHLBB and Federal Savings and Loan Insurance Corporation regulators for a showdown with Madison's board. McDougal himself was not invited. McDougal was stripped of authority, and federal officials agreed to supervise the failed thrift until the FSLIC found money to pay depositors. When, a year later, Bassett Schaffer received an audit for 1986 (and a revised audit for 1985) officially reflecting that Madison Guaranty was insolvent, she wrote the FHLBB and FSLIC a letter, dated December 10, 1987, strenuously urging them to shut down Madison and two other Arkansas S&Ls. Fifteen months later, federal regulators (whose tardiness cannot be blamed on pressure from a state governor) finally locked Madison's doors.

There is not the slightest evidence, then, that Bassett Schaffer inappropriately delayed taking action against Madison. Nor, it seems, did she bend the law when asked by Hillary Clinton to approve a stock sale by the ailing thrift.

Remember the dark hint of misdeeds in Gerth and Engelberg's December 15, 1993, story: "Just a few weeks after Mr. McDougal raised the money for [Governor Clinton], Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock." Now, what made Madison Guaranty's plan "novel" is hard to say. The vast majority of state-regulated S&Ls in 1985 issued stock. Even so, the adjective, with its implication of wrongdoing, has recurred mantra-like in virtually every Whitewater roundup article since.

For Hillary Rodham Clinton to have ventured anywhere near Madison in any capacity was a damn fool thing to do. But the fact is that her entire involvement in the "novel" stock issue consisted of the mention of her name in a letter written by a junior member of the Rose Law Firm expressing the opinion that it would be permissible under state law for Madison Guaranty to make a preferred stock offering. After studying the applicable statutes and consulting with her staff, Bassett Schaffer agreed. "Arkansas law," she wrote in a two-paragraph letter dated May 14, 1985—the now-famous "Dear Hillary" missive—"expressly gives state chartered associations all the powers given regular business corporations . . . including the power to authorize and issue preferred capital stock." Bassett Schaffer had issued the narrowest sort of regulatory opinion. Had she ruled otherwise, Madison Guaranty would have had no difficulty finding a judge to reverse her. Anyway, no application was ever filed.

The Arkansas Securities Department's power to close ailing S&Ls was mostly theoretical. Unlike the feds, Bassett Schaffer's office had no plenary authority to shut S&Ls down and seize their assets. Nor did Arkansas law make any provision for the state to pay off despositors of bankrupt S&Ls. That duty belonged to the FSLIC. "We acted in unison at all times," says Walter Faulk, then director of supervision for the FHLBB in Dallas. "I never saw [Bassett Schaffer] take any action that was out of the ordinary. Nor, to be perfectly honest, could she have gotten away with anything if she did. To my knowledge, there is nothing that she or the governor of Arkansas did or could have done that would have delayed the action on this institution."

When I asked him recently about the discrepancies and omissions in his reporting, Jeff Gerth stood his ground, alternately argumentative and defensive, and did not wish to be quoted. He argues, for example, that he never literally wrote that Jim McDougal had *in fact* gotten Bassett Schaffer the job, merely that he'd claimed to. Her denial struck him as beside the point. In other instances, he pleaded limitations of time and space.

The perception that Gerth most resents is the one most talked about in Arkansas: his reliance upon the hidden hand of Sheffield Nelson—Clinton's 1990 Republican gubernatorial opponent and a legendary political infighter. The *Times* reporter insists that Nelson did no more than give him Jim McDougal's phone number and later introduce him to former Judge David Hale, whose defense attorney is Nelson's associate. Nelson, the Republican nominee for governor again in 1994, tends to be coy about his role. But he has given other reporters a thirty-eight-page transcript of an early 1992 conversation between himself and McDougal, then embittered by what he saw as Clinton's abandonment.

Indeed, Jeff Gerth, Sheffield Nelson, and the *New York Times* go way back. As long ago as 1978, Gerth wrote a well-timed exposé of Nelson's mortal foes Witt and Jack Stephens—the billionaire natural-gas moguls and investment bankers who ran Arkansas like a company store during the Orval Faubus era (1955–67). The Stephens brothers owned a small gas-distribution company in Fort Smith that was paying them at a better rate than other gas-royalty owners. But what made Gerth's piece significant was its timing: it appeared shortly before a Democratic primary in which the Stephenses' nephew, U.S.

Representative Ray Thornton, was eliminated in a three-man race for the U.S. Senate. Gerth had promised local reporters he'd uncovered a scandal that would knock Thornton out of the race. Some observers think the *Times* article about the business dealings of Thornton's uncles did swing just enough votes in Fort Smith to keep him out of a runoff election won by Senator David Pryor.

A few more highlights from Sheffield Nelson's political biography may help underline his motives for helping reporters portray the Clintons in the worst possible light. Hired out of college as Witt Stephens's personal assistant, Nelson was later installed as CEO of Arkansas-Louisiana Gas Co. (Arkla), controlled by the Stephens family and the state's principal natural-gas utility. (It was his subsequent refusal to use Arkla pipelines to carry gas from other Stephens-owned companies to buyers east of the state that eventually provoked a lifelong blood feud of Shakespearean malevolence.) Until 1989 Nelson was a Democrat, impatiently biding his time until the end of the Clinton era. But when it became apparent that Clinton would run again in 1990, Nelson became a Republican and won the 1990 gubernatorial primary over an opponent funded by Stephens interests. Bill Clinton then proceeded to humiliate Nelson 58 percent to 42 percent in the general election.

Clinton owed his 1990 triumph in part to the fact that his Public Service Commission conducted an inquiry into a business deal involving Nelson and a friend of Nelson's named Jerry Jones. It seems that back when Nelson was CEO of Arkla, he'd overridden the objections of company geologists and sold the drilling rights to what turned into a mammoth gas field in western Arkansas to Arkoma, a company owned by Jones, whom Nelson had brought onto Arkla's board of directors. The price was $15 million. Jones found gas almost everywhere he drilled. Two years after Nelson's departure, Arkla paid Jones and his associates a reported $175 million to buy the same leases back as well as some other properties. Jerry Jones then proceeded to buy the Dallas Cowboys and win two Super Bowls. The election-year probe of the Arkla-Arkoma deal resulted in millions of dollars of refunds to rate payers, which wasn't necessarily the point. It also earned the President a permanent spot on Sheffield Nelson's enemies list. The result, it's no exaggeration to say, has been Whitewater.

The talents of investigative reporters now poring over Whitewater documents might be better spent looking into another McDougal real-estate venture. Sheffield Nelson and Jerry Jones put up a reported $225,000 each in return for a 12.5 percent share of McDougal's ill-conceived luxury retirement community on Campobello Island, New Brunswick, Canada. It was New Deal Democrat McDougal's odd conceit that wealthy vacationers and retirees would be moved by sentimental memories of FDR's summer retreat (remember *Sunrise at Campobello?*) to purchase lots on a resort island that is in fact damp, cold, foggy, and remote. The Campobello project not only failed but helped pull Madison Guaranty down with it. Gerth and the *Times* have left that aspect of the Madison Guaranty story unexplored—even though, unlike Whitewater, the name of Campobello Properties Ventures is mentioned prominently and repeatedly in the very FHLBB examination report that Gerth quoted in his original March 8, 1992, article. Also unlike Whitewater, the Campobello project *did* put a big chunk of Madison Guaranty's scant capital at risk—some $3.73 million, to be exact, at a time when the FHLBB examiner contended that the S&L was actually $70,000 in the hole.

At last report, that particular picturesque stretch of Canadian coastline belonged to the Resolution Trust Corporation. Nelson and Jones, however, actually made a profit. In 1988, the FHLBB, then supervising Madison Guaranty's assets, bought the boys out for $725,000—leaving them a profit of $275,000. No doubt there's a plausible explanation, although William Seidman, chief of the FDIC and the RTC at the height of the S&L crisis, told the *Fort Worth Star-Telegram* that "I can't believe it. It's an extraordinary event. It smells. It could be legit, but I doubt it." Gerth says the Campobello deal holds no interest for *Times* readers. But imagine the uproar had your tax dollars bailed out the Clintons rather than an embittered Republican politician feeding damaging allegations to the *New York Times*.

The same faults that mar Jeff Gerth's reporting on Whitewater—misleading innuendo and ignorance or suppression of exculpatory facts—also showed up in the *Times* accounts of Hillary Rodham Clinton's commodity trades with Springdale attorney Jim Blair and her husband's dealings with Tyson Foods. "During Mr. Clinton's tenure in Arkansas," Gerth wrote near the top of his March 18, 1994, front-page account, "Tyson benefited from a variety of state actions, including $9 million in government loans, the placement of company executives on important state boards and favorable decisions on environmental issues." The alleged $9 million in loans was the implied quid pro quo for old pal Blair's generous tips to Hillary in the 1970s that helped her turn $1,000 into nearly $100,000.

Following Gerth's report, the incriminating $9 million figure appeared virtually everywhere. The

Times itself weighed in with a March 31 editorial called "Arkansas Secrets," attacking the "seedy appearances" of Bill and Hillary Clinton's "extraordinary indifference to . . . the normal divisions between government and personal interests." The same editorial went on to deride what it called "the Arkansas Defense": that "you cannot apply the standards of the outside world to Arkansas, where a thousand or so insiders run things in a loosey-goosey way that may look unethical or even illegal to outsiders." Nor have *Times* editorial writers been the only ones to scold the Clintons for succumbing to the lax moral climate of the President's native state. The *Baltimore Sun*, Spiro Agnew's hometown paper, opined that the First Lady's adventures in the cow trade "certainly [don't] smell right, especially considering that [Jim Blair] represented a giant, influential agribusiness firm in Arkansas that later received what seemed to be favors from Gov. Clinton." *Newsweek*'s Joe Klein wrote of the President's "multiple-personality disorder," involving a moderate Clinton, a liberal Clinton, and "the likely suspect in the Whitewater inquiry, a pragmatic power politician who did whatever necessary to get and keep office in Arkansas . . . granting low-interest loans to not-very-needy business interests, who in turn contributed generously to his political campaigns. This Clinton snuggled up close to the Arkansas oligarchs, the bond daddies and chicken pluckers—and never quite escaped the orbit of the shadowy Stephens brothers, Witt and Jackson." (Witt Stephens has been dead for three years, and Jack Stephens is a Reagan Republican who has bankrolled nearly every Clinton opponent—except Sheffield Nelson—since the early 1980s.)

THOUGH GERTH PORTRAYED DON TYSON AS A MAJOR CLINTON SUPPORTER, CLINTON'S BATTLES WITH THE CHICKEN MOGUL ARE LEGENDARY IN ARKANSAS

There's just one problem with this chorus of self-righteous denunciation: the $9 million in loans that inspired it never existed. Especially attentive readers of the *New York Times* may have noticed an odd little item in the daily "Corrections" column on April 20, 1994:

> An article on March 18 about Hillary Rodham Clinton's commodity trades misstated benefits that the Tyson Foods company received from the state of Arkansas. Tyson did not receive $9 million in loans from the state; the company did benefit from at least $7 million in state tax credits, according to a Tyson spokesman.
>
> Gerth blames a chart misread on deadline.

But was the *Times* embarrassed? Hardly. In the journalistic equivalent of double jeopardy, the *Times* editors, having convicted Hillary Clinton on a spurious charge, decided she was guilty of a *new* charge: helping Tyson Foods to that $7 million in tax credits. No sooner had she held her April 22 press conference on Whitewater-related issues than the *Times* fretted that the First Lady's performance had been smooth but cleverly evasive. Particularly suspicious, an April 24 editorial found, were her dealings with Jim Blair, "a lawyer for Tyson Foods, a large company that was heavily regulated by and received *substantial tax credits* from the Arkansas government." [Emphasis added] And people call the President slick!

The truth is far less lurid. The $7 million in investment tax credits Tyson Foods claimed against its Arkansas state tax bill after 1985—that is, between seven and fourteen years after Hillary's commodity trades—were written into the state's revenue code and were never Bill Clinton's to bestow or withhold. True, the Clinton Administration did sponsor the 1985 legislation that created the tax credits. It did so under strong pressure, not from Tyson but from International Paper, which threatened to take its processing plants elsewhere unless Arkansas matched tax breaks available from other states—a potentially severe economic blow to the already poor southern half of the state. Far from being unique to Arkansas, state investment tax credits are now the rule from sea to shining sea. One week after the *Times* made its lame correction, Tyson announced the opening of a new plant in Portland, Indiana. According to a press release by Indiana Governor Evan Bayh, the state and local governments provided some $9 million in economic incentives—approximately equal to what Tyson got from Arkansas during Bill Clinton's six terms.

Elsewhere, nearly every bit of evidence cited as proof of shady connections between the Clintons and Tyson Foods in the *Times* March 18, 1994, front-page story got the familiar Gerth treatment. Besides the imaginary $9 million in loans, Gerth cited several other suspicious transactions, among them a bitter court battle over polluted groundwater in the town of Green Forest in which the Clinton Administration "failed to take any significant action," and a pair of seemingly tainted appointments—including renaming a Tyson veterinarian to the state Livestock and Poultry Commission and Jim Blair to the University of Arkansas board. An objective account of the court battle would have pointed out that the city of Green Forest was itself a defendant in the same lawsuit. Bill Clinton was not. Officials of the Arkansas Department of Pollution Control and Ecology testified for the plaintiffs against Tyson Foods. So much for yet another dark Clintonian conspiracy.

Reappointing a Tyson veterinarian to the Livestock and Poultry Commission? Clinton is guilty as charged. Except that the fellow happens to be the state's ranking expert on chicken diseases, the prevention and treatment of which is the commission's principal task. As for naming Jim Blair himself to the University of Arkansas board? Well, it's quite an honor, and Blair can undeniably score great Razorback tickets. Otherwise, where's the scandal? At any rate, Blair wasn't a Tyson employee back when he and Hillary did their cattle trades. He was in private practice as one of Springdale's most prominent corporate attorneys, representing banks, trucking companies, insurance firms, and poultry interests.

Gerth portrayed chicken mogul Don Tyson as a major Clinton supporter and fund-raiser, one whose close ties to the President had "been a subject of debate for years in Little Rock and [which] became an issue during the 1992 Presidential campaign." The fact is that Clinton's battles with Tyson and the poultry industry are legendary in Arkansas. After Clinton failed to support an effort by the poultry and trucking lobbies to raise the truck weight limit to 80,000 pounds, Tyson backed his Republican opponent, Frank White, in 1980 and 1982 and refused to speak to Clinton for years. When Clinton finally gave in on the 80,000-pound limit (making Arkansas the last of the states to do so), he pushed through the legislature an unusual "ton-mile" tax on eighteen wheelers—scaling the fee to the weight and distance they drove on Arkansas highways. The ton-mile tax was eventually thrown out after a bitter court battle. (In keeping with tradition, a profile of Clinton in *The New York Times Magazine* by Michael Kelly last July omitted the political context and cited the same fight as evidence of Clinton's spinelessness.)

Like most Arkansans, Tyson did back Clinton's 1983 educational reforms and made relatively modest campaign contributions from then on—something that was clearly prudent on the part of one of the state's largest private employers. But in the legislature the poultry and trucking industries fought virtually every Clinton initiative. Indeed it was Clinton's anger at the poultry industry and the Stephens interests, among others, after they combined to beat back a half-cent education sales tax in 1987 that provoked him to create a statewide "blue-ribbon" panel to write Arkansas's first meaningful ethics and disclosure law. After the selfsame "special interests" gutted the thing during a special session, Clinton dissolved the legislative session, led the effort to put the new standard on the ballot as an initiated act, campaigned for it hard, and won. (*Times* editorial writers may be interested to know that New York Governor Mario Cuomo's having earned $270,000 in 1992 giving speeches might constitute a felony here in darkest Arkansas.)

Don Tyson did throw in with the governor on one notable issue during Clinton's last go-around with the Arkansas legislature. A charter member of the so-called Good Suit Club—a group of wealthy bankers and businessmen, like the late Sam Walton of Wal-Mart, who met informally to encourage educational reform—Tyson endorsed Clinton's plan to levy a 1/2 of 1 percent increase in the corporate income tax to benefit community technical colleges, helping the bill win the necessary three-fourths vote. Quick, somebody call Gerth at the *New York Times* and notify the special prosecutor. Something tells me they're fixing to load those technical colleges up with poultry-science courses.

All of this raises the *really* interesting question at the heart of the Whitewater scandal: why—with representatives of the vaunted national press camped out in Little Rock for weeks at a time, squinting over aged public documents and pontificating nightly at the Capital Hotel bar—has nobody blown the whistle on Gerth and the *New York Times*? There are several reasons, ambition and fear among them. It is always safest to run with the pack, and editors who invest thousands of dollars on a scandal don't normally want to hear that there's no scandal to be found. Reporters who *have* challenged aspects of the official version, like Greg Gordon and Tom Hamburger of the *Minneapolis Star Tribune* and John Camp of CNN, have not found their celebrity enhanced. Those who have tried to split the difference, like the reporters for *Time* magazine—which has always reported (albeit parenthetically) that Arkansas bank regulators treated Madison Guaranty sternly—have ended up producing accounts as muddled and self-referential as a John Barth novel. "The dealings in question," *Time*'s George Church wrote last January 24, "are so complex that it is difficult even to summarize the suspicions they arouse, let alone cite the evidence supporting such suspicions. . . . Violations of law, if any, would be extremely difficult to prove." And people call Clinton mealymouthed.

Regional bias and cultural condescension play a part, too. How could the *New York Times* be wrong and the *Arkansas Times* be right? But even if Bill Clinton had been governor of Connecticut instead of Arkansas, in the post-Watergate, post-everythinggate culture no reporter wishes to appear insufficiently prosecutorial—particularly not when the suspects are the President and his wife. By definition they've got to be guilty of something; it may as well be Whitewater. ■

PREPARED BY HOUSE BANKING COMMITTEE
Aug. 5, 1994

UNPRECEDENTED RTC RESOURCES DEVOTED TO MADISON CIVIL CASE

Mr. Leach, Mr. D'Amato and other Republicans have claimed, before and during these hearings, that the White House and Treasury Department contacts resulted in an obstruction of justice and a manipulation of the regulatory system. Both of these claims are irresponsible and completely untrue.

The Committee's hearings have clearly shown that there is absolutely no evidence of obstruction of justice or regulatory manipulation. Criminal referrals were filed and are being fully investigated by Independent Counsel Fiske. On the regulatory side, **the facts show that the RTC did engage in a type of regulatory manipulation -- but it was directed squarely against the Clintons.**

What the Banking Committee has learned is that the RTC has not followed regular procedure in the Madison Guaranty case, the failure of a $100 million thrift, but has devoted unprecedented taxpayer resources to it.

RTC's current staffing of the Madison civil investigation, along with its unprecedented hiring of outside counsel, represents a grossly disproportionate investment of taxpayer resources compared to the resources dedicated to other failed thrifts. **The resources devoted to the current Madison civil investigation dwarf the resources assigned to recover losses from all of the largest S&L failures combined.** Compare the resources devoted to Madison to the largest thrift failure, $30 billion American Savings, which had one PLS attorney reviewing that failure to find civil claims.

In fact, about **one quarter of all Professional Liability Section (PLS) line attorneys at RTC's Washington headquarters are assigned to the Madison case** -- clearly not regular RTC procedure. The taxpayer ends up losing out because of political pressure on the RTC to pursue the Madison case when it is obviously not cost effective.

The RTC has devoted unprecedented taxpayer resources to the current civil investigation involving Madison -- the second such review of Madison. The first review, done by the FDIC, identified Madison's accountants, Frost & Co., as the only entity worthy of pursuing for civil claims. FDIC collected over $1 million on that claim, and decided that it was not cost-effective to pursue other claims against Madison.

The facts:

In his opening statement, RTC CEO Jack Ryan stated,

"I believe and continue to believe that the (RTC's) overriding goal is to pursue in a cost effective, tenacious and fair manner the best cases that can be brought against those whose behavior was egregious."

"I have never instructed anyone to do anything but find the truth and work to see if the RTC had a cost effective civil case, as is our regular procedure."

RTC Staff Devoted to Madison

The RTC is not pursuing a cost-effective case, even though Mr. Ryan states that it is RTC policy to pursue only cost effective cases.

The group working on Madison Guaranty was headed by Mark Gabrellian, Senior Counsel in the Professional Liability Section. Gabrellian assigned a "core group" of three lawyers to work essentially full-time on Madison. (These lawyers maintained their existing case loads but were instructed to try their best to put those cases on hold.)

In addition to the core group, Gabrellian used three other lawyers to work on specific Madison-related projects. These three additional lawyers spent a majority of their time on Madison. The staff of lawyers was augmented by two paralegal and two secretaries.

At the time RTC began its civil investigation of Madison (February 1994), the Professional Liability Section in Washington employed only 25 attorneys (1 Assistant General Counsel, 3 Senior Counsels, and 21 line attorneys). Thus, one out of four line attorneys were spending at least a majority of their time working on Madison; an unprecedented devotion of resources to a failed thrift, not to mention a thrift of around $100 million.

Hiring Outside Counsel

By early February, Gabrellian realized RTC did not have enough resources to completely review the Madison Guaranty case by February 28. The Madison Pillsbury firm was hired to supplement the RTC's work. While Gabrellian did not want to specify the amount of resources RTC was asking the outside firm to commit to the Madison case, he described those resources as "a significant number."

185 Thrifts in Same Boat as Madison

For perspective on hiring outside counsel, it should be noted that during the first quarter of 1994, RTC was tasked to review the failure of 184 thrifts in addition to Madison Guaranty. This was because the statute of limitations for those thrifts, like Madison, had been extended until sometime in the first quarter of 1994.

Out of 185 thrifts that needed to be reviewed in the first quarter of 1994, RTC hired outside counsel to help investigate only one thrift, Madison Guaranty.

How Rare

Gabrellian and Tom Hindes said that it is rare for there to be more than one PLS attorney assigned to a failed thrift. In fact, at the Washington office, one PLS attorney usually handles about four thrifts at a time. Two examples illustrate this.

First, Thomas Hindes, now the top lawyer in the Professional Liability Section, was at one time the **only** attorney working on American Savings & Loan, at **$30 billion, one of the largest institutions ever handled by the RTC.**

Second, the RTC currently has only **two** PLS attorneys reviewing the failure of HomeFed, a **$14 billion** thrift which was more than 100 times larger than Madison Guaranty.

Another example is Silverado. RTC had only **one** PLS attorney assigned to the over **$5 billion** thrift.

Mr. Hindes stated that the RTC could not devote the type of staff attention Madison received to even a fraction of the other thrifts for which it is responsible.

Compare the size of the above thrifts to Madison Guaranty, which at its peak, had assets of about $125 million. The resources dedicated to Madison are unparalleled in RTC's history or the history of the FDIC.

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U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

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September 7, 1994

Dear Democratic Colleague:

A great deal of misinformation has appeared in the mainstream media about the House Banking Committee's Whitewater hearings. The following report should help to clarify the record. If you have any further questions about the hearings I would be happy to answer them.

Summary

As directed by the bipartisan House Leadership, the Committee's hearings focused on contacts between White House and Treasury Department staff related to the Resolution Trust Corporation's (RTC's) investigation of Madison Guaranty Savings and Loan. The Banking Committee found over three dozen contacts, with the vast majority being phone calls, facsimiles, and happenstance encounters, between White House and Treasury Department staff. The Committee also found that most of the contacts occurred as a result of attempts to gather information to respond to press inquiries.

Despite unfounded and often scurrilous Republican claims of obstruction of justice, manipulation of the bank regulatory system, and ethics violations, the Committee's hearings revealed absolutely no evidence that any White House, Treasury Department or RTC official violated any ethics canons or broke any laws.

Moreover, it is important to note that the RTC investigation of Madison was not impeded. RTC staff testified under oath that Clinton Administration officials made no attempt to interfere with the Madison investigation. RTC criminal referrals on Madison were filed in a timely manner and the RTC civil investigation of Madison continues today at an unprecedented clip. In fact, the RTC's general counsel testified that a disproportionate amount of resources are being devoted to the Madison investigation.

The Committee's findings were buttressed by three investigations. Former Independent Counsel Fiske, a lifelong Republican, concluded that no criminal wrongdoing occurred;

White House Special Counsel Lloyd Cutler found no ethics violations by White House staff; and the non-partisan Office of Government Ethics (OGE) agreed that no White House or Treasury Department staff violated government ethics canons.

It is accurate to say that certain Clinton Administration officials used bad judgment in relaying information and that they were insensitive to an appearance of impropriety. Responding to that perception problem, the White House tightened restrictions on contacts between the White House and executive branch agencies. No one suggested, and the Committee found no basis for changing any laws or regulations relating to White House contacts with executive branch agencies.

The fact that the hearings revealed no legal or ethical improprieties did not deter irresponsible Republicans and many in the media from adhering to preconceived notions that somehow, somewhere, members of the Clinton Administration, including the President and First Lady, had committed some nebulous impropriety to halt Whitewater investigations. When the facts proved them wrong, they decided to attack, for the first time, the Committee's time-tested hearing process. This process was, of course, the very same process Republicans and the media observed during high-profile investigations of Republican Administrations.

Far from suppressing the truth as Republicans claim, the Committee's hearings allowed these facts to emerge:

Fact one: **As directed by the House Leadership and House Resolution 394, the Committee held five days of hearings on Whitewater**

Beginning with his appointment in January 1994, former Independent Counsel Robert Fiske ran an aggressive investigation. During his tenure he hired over 20 experienced investigators and spent over a million dollars investigating Whitewater. Mr. Fiske was concerned that parallel Congressional investigations and public hearings could compromise his investigation. Mr. Fiske made his concerns clear to the Leadership of both Houses. He asked that Congress limit its hearings to matters that he had already investigated.

In response to Mr. Fiske's request, the House passed Resolution 394 (H.Res 394) on March 22, 1994, by a vote of 408-15, with unanimous Republican support. H.Res 394 states that Whitewater hearings would be "structured and sequenced in such a manner that in the judgment of the "Leaders" they would not interfere with the ongoing investigation of [Whitewater] Special Counsel Robert B. Fiske."

In the spirit of H.Res 394, the bipartisan House Leadership issued a June 15, 1994, directive stating that the Committee on

Banking, Finance and Urban Affairs would hold hearings on the so-called "Washington phase" of the Whitewater matter including 1) White House and Treasury Department contacts related to the RTC's investigation of Madison Guaranty Savings and Loan; and 2) the circumstances surrounding former White House Counsel Vince Foster's death. These are the two topics that had already been investigated and could be pursued without compromising Mr. Fiske's investigation.

In preparation for the hearings the Committee reviewed thousands of agency and White House documents and Committee staff conducted over three dozen in-depth interviews. The hearings were held on July 26th and 28th, and August 3rd, 4th and 5th. In total, over two-dozen high profile witnesses from the White House, Treasury Department and RTC testified during the hearings.

Despite repeated Republican complaints that Democrats had somehow engineered the scope of the hearings to protect the President, it was the House Republican and Democratic leadership that agreed to limit the scope of the Banking Committee's hearings to the Washington phase of the Fiske inquiry. It is also important to recall that all Republicans in the House voted on the Floor (H.Res 394) to honor Independent Counsel Fiske's request to limit Congressional hearings.

Fact two: Unprecedented Cooperation from the Clinton Administration

The Clinton Administration provided the Committee with an unprecedented level of cooperation by making White House staff available for interviews and testimony, and by handing over hundreds of documents -- assistance not forthcoming from former President Bush and his Administration. The White House also cooperated fully and openly with the investigation of former Independent Counsel Fiske.

Fact three: Former Independent Counsel Fiske found no criminal intent or wrongdoing related to contacts issue

On June 30, 1994, Independent Counsel Robert B. Fiske, Jr., a Republican, concluded regarding Treasury/White House contacts: "The evidence is insufficient to establish that anyone within the White House or the Department of the Treasury acted with the intent to corruptly influence an RTC investigation."

Fact four: No White House staff violated ethics standards

On March 10, 1994, President Clinton named Lloyd Cutler Special Counsel to the President. Mr. Cutler held a similar position under President Carter, and in 1989, former President Bush appointed him a member of the Commission on Federal Ethics Law Reform.

Mr. Cutler testified before the Committee as to the ethical propriety of White House contacts with Treasury officials concerning the RTC's inquiries into Madison Guaranty Savings and Loan. Mr. Cutler's investigation determined that no White House staff violated ethical standards. Mr. Cutler also concluded that no White House staff made any effort to influence the RTC investigation of Madison, and no decision by the RTC was changed as a result of contacts between the White House and Treasury Department. In fact, Mr. Cutler concluded that the "heads up" given by the Treasury Department to the White House regarding the criminal referrals was appropriate.

Mr. Cutler also asked the non-partisan Office of Government Ethics to opine on his findings. The OGE concurred with Mr. Cutler's finding that no White House staff member violated ethics rules. Mr. Cutler testified that it would have been better if some of the issues had been handled differently from an appearance standpoint, but he emphasized that no criminal laws or ethics canons were violated.

Fact five: **The nonpartisan Office of Government Ethics agrees no White House or Treasury Department staff violated government ethics standards**

On March 3, 1994, Treasury Secretary Lloyd Bentsen asked the non-partisan OGE to determine whether Treasury Department employees violated any ethics or conflict of interest standards related to contacts with White House staff. On July 31, 1994, OGE reported to Secretary Bentsen that "Treasury Department employees did not violate any standards of ethical conduct for employees of the executive branch."

Fact six: **Members of the Banking Committee voted to exclude questions about Vince Foster's suicide.**

I found the idea of probing Mr. Foster's suicide in front of a phalanx of television cameras and print media surprisingly insensitive to Mr. Foster's grieving family. After all, Mr. Fiske issued a very thorough report concluding that Mr. Foster committed suicide. Additionally, Mr. Fiske concluded that matters related to Whitewater or Madison Guaranty played no role in Mr. Foster's death. An investigation by the staff of the Ranking Member of the Government Operations Committee corroborated Mr. Fiske's findings. The Committee voted not to revisit the issue.

Fact seven: **The House bipartisan Leadership made it clear that the hearings should be conducted under normal Committee procedures -- including the use of the five-minute rule.**

Republicans claimed that strict adherence to the five-minute

rule amounted to a cover-up because it limited Member questioning. As you are aware, the five-minute rule was not created for the Whitewater hearings. The five-minute rule is a completely non-partisan, non-judgmental rule adopted by the House of Representatives more than 100 years ago.

With 51 Members, experience has proven that the five-minute rule is the only reasonable way to keep order during high-profile and contentious hearings. In addition, adherence to the five-minute rule is the only way to ensure that junior Members of the Committee have an opportunity to ask questions. I have enforced the five-minute rule for every Committee hearing since I assumed the Chairmanship in January 1989.

Some of the high-profile hearings held under the five-minute rule include Silverado Savings and Loan, which dealt with the role Neil Bush played in the failure of the billion-dollar thrift; the Banca Nazionale del Lavoro (BNL)/Iraqgate scandal, which detailed the Bush Administration's bungled policy toward Saddam Hussein and Iraq; the Bank of Credit and Commerce International (BCCI) scandal, which involved the former Defense Secretary, Clark Clifford; the Lincoln Savings and Loan failure involving Charles Keating, and five Senators, (four of them Democrats), dubbed the Keating Five.

At no time during these hearings did Republicans object to the use of the five-minute rule. In fact, the Republicans complimented me for my handling of these politically sensitive hearings.

Fact eight: Republicans were allowed to ask any question as long as the question was within the parameters of the June 15 bipartisan House Leadership agreement.

Absolutely no attempt was made to limit the questions Republicans could ask as long as they stayed within their allotted time, and respected the scope of the hearings as set forth in the bipartisan House Leadership agreement. Swayed by visions of nightly news sound bites and a national TV audience, many Republicans used their time to engage in political posturing. Republicans often used their time to complain about the "limited scope" of the hearings and "restrictive Committee rules" instead of asking questions about the issue at hand. The Republican strategy was to divert attention from the facts -- facts that unequivocally discredited their wild allegations of wrongdoing by the Clinton Administration.

Fact nine: Republicans refused to invoke Rule 11

If the Republicans believed that the Committee was covering up for the Clinton Administration, all they had to do was ask for a Rule 11 hearing, which gives them the right to hold hearings

and to call their own witnesses. In fact, the Republicans chose not to convene Rule 11 hearings because there was no evidence to support any of the outrageous allegations they had bandied about for months in advance of the hearings.

Fact ten: The RTC has devoted unprecedented resources to the Whitewater investigation.

The RTC's current staffing of the Madison civil investigation, along with the hiring of outside counsel to investigate Madison, represents a grossly disproportionate investment of taxpayer resources compared to the resources dedicated to other failed thrifts. Contrary to irresponsible Republican charges of manipulation of the RTC investigation, the facts show that the opposite has occurred.

Given Madison's size, the resources devoted to the current civil investigation dwarf the resources assigned to recover losses from any other S&L failure. For example, the RTC assigned only one lawyer to conduct a civil investigation of a $30 billion thrift failure, costing taxpayers in excess of $2 billion, while about one-quarter of the twenty-plus lawyers at RTC's headquarters that are assigned to similar civil investigations have worked on the $60 million Madison failure. Clearly the RTC did not follow regular procedures on its Madison probe.

Madison was further singled out for special treatment when in February the RTC hired outside counsel to work on the civil investigation. Out of the 185 thrifts that failed in the first quarter of 1989, RTC hired outside counsel for only one case, Madison. Moreover, the law firm hired by the RTC was represented by former Republican U.S. Attorney, Jay Stephens, an outspoken critic of the President. In addition, a 1991 Federal Deposit Insurance Corporation (FDIC) civil review concluded that the Clintons had no responsibility to taxpayers for losses related to the failure of Madison.

Augmenting the fact that the RTC has bent over backwards to investigate Madison, each and every RTC witness testified that the RTC's Whitewater investigation was not impeded. No credible evidence of obstruction was presented by any of the witnesses.

Fact eleven: Questions about Secret Tape Recording

The Republicans base a great deal of their charges of impropriety by the Clintons on allegations made by Jean Lewis, a criminal investigator in the RTC's Kansas City office. It was Ms. Lewis' judgment that led to the Clintons being listed as potential witnesses in the Madison criminal referral. However, questions have recently been raised about Ms. Lewis and her supervisors at the Kansas City office of the RTC.

First, Ms. Lewis secretly taped the conversation in which she and RTC-Washington lawyer, April Breslaw, discussed Whitewater. During that conversation, Ms. Breslaw stated that her superiors in Washington would like to say that Whitewater did not cause losses to Madison if they could do so honestly. Ms. Lewis claims that Ms. Breslaw was somehow attempting to steer the outcome of the RTC Kansas City investigation of Madison.

The Committee invited Ms. Lewis to testify in order to tell her side of the story. Regretfully, Ms. Lewis refused to appear at the Committee's hearings, even though she had met privately with Ranking Republican Member, Jim Leach to discuss the taping. Ms. Lewis also provided Mr. Leach with confidential RTC memos regarding Madison, which he placed in the Congressional Record. Ms. Lewis did not provide copies of the same information to Democrats.

Nonetheless, the Committee thoroughly investigated the incident, hearing testimony from numerous RTC officials. The Committee found no truth to the allegation that Ms. Breslaw tried to influence the outcome of the Whitewater investigation. Mr. Leach took her statement out of context. Ms. Breslaw in fact told Ms. Lewis that RTC managers in Washington wanted an honest investigation and they were not seeking a predetermined outcome from the investigation.

In addition, Ms. Breslaw testified under oath before the Committee that her superiors at RTC did not order her to pressure Ms. Lewis. Top RTC officials also stated under oath that they did not direct Ms. Breslaw to pressure Ms. Lewis.

Despite the inappropriateness of the secret taping, and the rebuttal of many of her allegations, Mr. Leach continues to lionize Ms. Lewis. In a floor statement on March 24, 1994, Mr. Leach stated that, Ms. Lewis "may be more trouble to President Clinton than Paula Jones."

Fact twelve: No evidence to support Leach allegations

During the hearings, Mr. Leach accused President Clinton of tipping-off Arkansas Governor Jim Guy Tucker to the fact that Tucker was listed as a target of the Madison criminal referrals. The hearings revealed absolutely no evidence to indicate that President Clinton ever spoke with Governor Tucker about the criminal referral.

On another occasion, Mr. Leach charged that White House and Treasury Department staff were responsible for delaying the filing of the RTC criminal referrals on Madison for three weeks. Again, the hearings revealed that the allegation was untrue. Each RTC witness disputed Mr. Leach's allegation, and no evidence to support Mr. Leach's allegation was ever produced.

Conclusion

The hearings provided an opportunity for the Republicans to prove their charges of wrongdoing by the Clinton Administration. In the five days of hearings, the facts that emerged did not support their accusations.

For months prior to the hearings, Republicans made scurrilous accusations against the President regarding contacts between the White House and Treasury Department staff related to the Madison investigation. Mr. Leach went so far as to say:

> "As in most serious public scandals cover-ups can prove as troubling as the crime. Seldom have public and private ethics of lawyers in the White House and Executive Branch departments and agencies been so thoroughly devalued. What the (Fiske) subpoenas indicate is the movement of an investigation from possible illegal acts committed by a President prior to taking office to possible illegal actions committed in office. Obstruction of justice is now clearly at issue."

Nothing could be further from the truth. The Banking Committee's hearings, just like the Fiske, Cutler and OGE investigations, revealed no obstruction of justice, manipulation of the Madison investigation or any ethical violations by anyone in the Clinton Administration.

As Chairman I assure you that I will uphold the integrity of the Committee. Regardless of criticism, I will not be party to a political lynching. We have an obligation to seek facts in pursuit of legitimate legislative goals, wherever those facts may lead. In this case, the facts do not support the claims made by the Republicans, nor did the hearings show any legislative purpose. Nevertheless, the Committee discharges its responsibilities as directed by the House.

Thank you for your attention to this matter. With best wishes.

Sincerely,

Henry B. Gonzalez
Chairman

HBG:dk

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August 24, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance,
and Urban Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Gonzalez:

I would like to take this opportunity to correct the record with respect to my service as Acting General Counsel of the Resolution Trust Corporation, in connection with your recent Whitewater hearings.

In the transcript of the hearings, there are statements and suggestions that I was, or may have been, a part of an attempt by persons in the Department of the Treasury or the White House staff to delay or prevent the filing by the RTC of the nine criminal referrals emanating from the Madison closing.

My first knowledge of, and involvement with, the processing of the nine criminal referrals was as Assistant General Counsel for the RTC's Legal Division office in Kansas City. To the best of my recollection, it occurred in late September, 1993. The Section Chief responsible for the legal coordination of criminal referrals advised me that her staff had been given nine criminal referrals out of the Madison closing to analyze and that her deadline for completing the task was too short. She requested that I intercede to gain additional time in order for her staff to complete the legal analysis. I thereupon called Vice-president Cavinaw, explained to him the situation and we quickly agreed to a one week extension of the deadline for the legal analysis. That was the sum total of my involvement in the processing of the criminal referrals.

Subsequent to those events I was called to Washington D.C. to serve as Acting General Counsel of RTC. I arrived, with two days notice, on Monday, October 4, 1993. Until October 4, I had not met Jean Hanson nor did I have any direct contact or dealings with anybody at the Treasury Department, and certainly not with any one identifying themselves as part of the White House staff.

Had I been given the opportunity to appear and respond to questions from your committee, I would have categorically stated, and I do now categorically state, that my communications with my Kansas City staff and with the Kansas City office of RTC regarding the pending criminal referrals were in no way influenced by the Treasury Department or by any individuals there. Instead, my request for a one week extension

of our deadline to complete the legal analysis was motivated exclusively by the operational limitations of my local, Kansas City, office.

I request that this statement be made a part of the record of the hearing.

Sincerely,

E. Glion Curtis
Regional Counsel

EGC/mec

cc: The Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance,
and Urban Affairs
House of Representatives

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Thursday, August 4, 1994

Hon. James A. Leach
Ranking Member, Minority
Committee on Banking, Finance and Urban Affairs

Dear Rep. Leach:

Pursuant to our colloquy during the Committee hearing yesterday, I am writing to request your disclosure of documents and information that you have referred to in the hearings to date.

Specifically, I understand that you and your staff have taken investigative trips on the Whitewater/Madison topic to, among other places, Kansas City, using funds and resources of the House Banking Committee. During these trips, my understanding is that you and your staff have interviewed individuals, gathered documents, and obtained other information.

Apparently on the basis on such information, you have made a number of statements and allegations in the Banking Committee which are critical of the Administration and the actions of individuals within the Administration. The implication of your comments is that you are in possession of some information that others on the Committee and the public are not in possession of.

In the interest of judging the validity of these statements and allegations, I would formally request that you provide me and the Banking Committee with a list of the individuals that you and your staff met with or interviewed during your investigative trips regarding Whitewater/Madison. I would also formally request that you provide me and the committee with copies of your interview notes, and with any statements, documents, depositions, or any other evidence or information that you developed during your investigative trips.

Furthermore, I would request that you specifically identify which, if any, pieces of information or evidence that you are supplying are new information, not available to either Special Prosecutor Fiske or to the Office of Government Ethics (OGE).

BILL ORTON
3d District, Utah

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I believe such full disclosure is necessary for the Banking Committee and the general public to make informed judgements about the serious allegations you have raised.

Since you and the other minority members of the Banking Committee have consistently called for full and prompt disclosure of all matters pertaining to Whitewater, I assume you will quickly and completely comply with this request.

Since tomorrow may be the last day of this phase of the Whitewater hearings in our committee, I would expect to receive this material, in full, by the end of today, or by the beginning of tomorrow, at the very latest. This is consistent with the level of responsiveness on the part of the Majority in the House Banking Committee with regard to public disclosure of documents.

Thanking you for your cooperation in this matter, I am

Sincerely yours,

/s/

Bill Orton
Member of Congress

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(202) 225-4241

August 4, 1992

The Honorable Bill Orton
1122 Longworth House Office Building
Washington, D.C. 20515

Dear Bill:

Thank you for your letter of August 4, 1994.

So that there is no misunderstanding, in February, at personal expense, I visited Kansas City and met with an individual who has sought whistleblower protection about matters under the jurisdiction of this Committee. In December and January, with travel authorized by the Chairman of the Committee, two members of the Minority staff visited Little Rock. In addition, at personal expense, one member of the Minority staff visited Kansas City in December.

Let me assure you that all information that is appropriate and relevant relating to the subject matter of these hearings in the possession of the Minority has been publicly released, either in my March 24 Floor statement or in the course of the Committee's hearings. My statements, questions and comments during the course of these hearings have been based on publicly-described or publicly-available material.

Attached is a copy of the March 24 statement with supporting documentation. Attached also are the documents I introduced into the record on July 26 and August 3.

As you know, all the Minority requested in November was a hearing on Madison Guaranty which would imply a bipartisan investigation. To this date no such hearing has been scheduled. Nor has an RTC Oversight Board hearing, as required by law, been scheduled in which the failure of Madison Guaranty could be addressed.

When the Committee turns to fulfilling its legitimate oversight responsibilities through the conduct of comprehensive hearings on the Madison/Whitewater circumstance, I am hopeful that complete, unredacted documentation on all aspects of those circumstances will be provided by the Administration, OTS, RTC and other relevant parties. As you know, I have initiated a law suit seeking the production of such documents which I would expect to share with the Majority.

I have also authorized the Minority staff to make available to the Majority documents -- most of which do not relate to the constrained subject matter of the current series of hearings -- collected from its Committee-sanctioned trips to Arkansas, including land transaction reports, Arkansas Securities Department records, publicly available OTS and RTC records and NASD records.

Sincerely,

James L. Leach
Ranking Minority Member

JL:tcbt

attachments (3)

1) March 24 Statement & supporting docs
2) Member's A-W tab book
3) Interview notes

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(202) 225-4247

February 3, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

CLOSING STATEMENT BY REPRESENTATIVE JAMES A. LEACH
WHITEWATER HEARINGS

AUGUST 5, 1994

Mr. Chairman, I would like to begin with a clarification. Mr. Neal suggested that in my August 3 statement I referenced the words "obstruction of justice." I did not. I purposefully refused to use the word "obstruction," which has legal implications and instead used terms with policy connotations. I noted that, while the criminal referrals had not effectively been "blocked," this did not mean an effort to do so was not made.

What did the witnesses today reveal on the subject? Mr. Dudine admitted that, until the group of referrals related to the failure of Madison Guaranty, no criminal referrals had ever been sent to Washington for review. Development of criminal referrals had heretofore been considered an exclusively regional responsibility. The panel acknowledged that the legal "analysis" that was developed represented a negative critique of the referrals. They further acknowledged that the Washington office played a lead role in brokering a delay so that the critique could be developed.

The fact of the delay is not overly important if the intended effect had been a neutral analysis of the referrals. It was not. The delay, as all participants understood, was designed to precipitate a litany of legalistic objections to the referrals presumably intended to vitiate their content or stall their transmittal.

In my August 3 statement, which troubled the Majority, I noted directly after my reference to the possibility that an effort may have been made to delay or block the referrals: "It is difficult to assess at what levels efforts were precipitated, but it is clear they were coordinated in such a way as to be reported to the top of the RTC." Actually, I under- rather than overstated this point. They were not only reported to the top of the RTC, but apparently to the top of the U.S. government.

After all, prior testimony has established that on September 29, 1993, the White House was alerted to the referrals and that on September 30, according to Cliff Sloan's notes, Jean Hanson not only summarized the content of the referrals to Sloan but outlined process aspects of their consideration: the fact that they had been sent to "D.C." and would be sent to "L.R." later in the week. Sloan's notes also reference the Vice President of the Kansas City office who, according to Glion Curtis's deposition to the Inspector General of the Treasury, had been contacted by Curtis that day about accepting a week's delay in order to complete the critique.

The point is that in the wake of the delay, which precipitated high level Washington attention to the issue, the Kansas City criminal investigations unit was presented with a one-sided legalistic critique of the evidence it had marshaled, which at the very least could be described as a policy-based effort to modify or block the referrals. It was only because of the collective backbone of the Kansas City criminal investigations unit that the referrals were not altered before being sent to the U.S. Attorney in Little Rock.

In the background at that time was the frustration of the Kansas City criminal investigators that the first referral had somehow been "lost" in the Justice Department and the sense that top levels of Justice as well as their own agency were controlled by particularly close associates of the President. In this regard, it

is instructive that one of our witnesses today acknowledges briefing his new boss, Mr. Altman, in March, 1993, on this referral, but despite it having a significant bearing on the President, Mr. Altman has no recollection of the briefing, nor of faxing a press article on Madison Guaranty to the White House within a few days of the briefing.

By further background, it should be understood that the Kansas City criminal investigations unit is analogous to a police department bureau investigating a crime long after it had taken place. If, for instance, a bank had been robbed, a police inspector might assemble the evidence against a suspect, but it would be up to the county attorney to assess that evidence to determine whether prosecution, a plea bargain, or insufficient evidence had been developed. What happened here by analogy is that lawyers for the police department assembled a critique of the evidence before it was turned over to the prosecuting attorney. Cops understand that now and again -- probably too frequently in some jurisdictions -- cases they assemble are not assiduously pursued. But few people in law enforcement are likely to be pleased if unprecedented efforts are undertaken to discredit the evidentiary work product they develop on legalistic grounds before the appropriate prosecuting attorneys who have responsibility for such judgments have a chance to look it over. That is what happened here. And that is why the delay which was demanded and the critique which eventuated were so offensive.

With these clarifications, I would like to stress that the first phase of these hearings is now complete.

Those who think these hearings have been much ado about a small part of a scandal which is itself modest in size are not altogether wrong. Nevertheless, the philosophical and public policy related issues it raises are not trivial, although most relate to events in Arkansas, not Washington, D.C.

What the Minority initially asked for was a hearing on Whitewater.

What the Minority got was an exhaustive hearing on process issues related to White House and Treasury contacts about the development and consideration of criminal referrals. The substance of the reasons an S&L in Arkansas, Madison Guaranty, failed was off the table.

Here, the Minority would stress that these hearings are being held in reverse chronological and substantive order. This is the case, in part because this Committee has not held, as required by law, statutory oversight hearings on the Resolution Trust Corporation, in which consideration of Madison's failure would be germane.

What the Majority, in effect, has done in these hearings is design and limit the Committee's investigation to an extensive survey of the trees along a bi-way of the Whitewater forest. What the Minority has attempted to show is how the bi-way is connected to the main road and suggest that the forest cannot be mapped without trudging through the thickets of Arkansas.

With regard to the Washington part of the probe, what the Minority has attempted to underscore is that in a country of law, it is important to assure accountability applies to all and that oaths of office relate to obligations undertaken to defend the Constitution, not the political fortunes of any individual.

In America no individual is privileged before the law. That is why the Minority objects to the White House view that the President is entitled to a "heads-up" tip-off of a criminal probe and why the Minority objects to the corollary Treasury view that such a "heads-up" is justified on the basis of an "imminent" or "anticipated" press leak.

The "see no wrong, hear no wrong, do no wrong" assertions of the White House staff are premised on the notion that it is not wrong to provide insider notification to one public official of the details of a criminal probe that touched him, his principal business partner, and close political associates. Could that official not realistically expect that elements of the federal bureaucracy, especially his political appointees, and private sector friends, especially those also implicated in the investigation, might have reason on a timely basis to help him, either in stalling the investigation or frustrating a probe through evidence destruction? Isn't it fair to assume that when others learn the White House is alerted to an embarrassing circumstance that attention is likely to be increased on the issue, with a chilling message of concern rippling through the agencies of justice?

The implications of insider advantage being given any American, even the President, is precisely why it was unethical for Treasury officials to brief the White House and precisely why, once informed, the White House Counsel's office, all of the occupants of which as attorneys are officers of the court, was ethically obligated not to brief, or allow the briefing of, the President. Little in law enforcement is more unseemly than for possible subjects of a criminal investigation to be tipped off before prosecutors.

These notifications gave a single American a privileged position under the law and represented an apparent violation of then existing ethical rules, most specifically 3 CFR 100.735, which stipulates that a White House employee "shall avoid any action . . . which might result in, or create the appearance of . . . Giving preferential treatment to any person . . . Losing complete independence or impartiality . . . Making a Government decision outside official channels . . . or . . . Affecting adversely the confidence of the public in the integrity of the Government."

No stepchild of Thomas Jefferson is privileged under the law. Indeed, if there are to be exceptions in law and ethics, it should be that public officials should be held to higher rather than lower standards than the average American.

We in the Minority believe there is a distinction between the Presidency and the President, and that to preserve and protect the former we must insist that the latter, as an elected steward of the public trust, not claim authority associated with pharaohs and kings.

Individuals who testified before us failed to see, as the Office of Government Ethics report makes clear, that the RTC is an independent institution, not the Treasury Department's finger bowl or the White House's blind cop.

One of the lessons that Congress should take from these hearings is that independent agencies should never again be run on a prolonged basis by political appointees to other departments.

Another lesson to be learned is that investigative hearings of this nature should be conducted with more flexible rules. Given the size of the Committee (at 51, the largest in either body), I would urge that the respective sides be allowed to aggregate time, so that designated Members could proceed uninterrupted for a substantial period. Under such an approach, Members might decline their right or decrease their time to question a particular witness or panel, but could be expected to receive extra time for a subsequent witness or panel. In addition, it should be stressed, panels of substantial interest should never be composed of more than three or four witnesses.

Serious inquiry requires that serious attention be devoted to process as well as substance. In this regard, it is clear that deposing witnesses under oath with verbatim transcripts in the

preliminary interview process, as the Senate did, is preferable to the more informal House interview approach. It would, perhaps, be helpful as well in investigatory hearings of this nature to allocate time for counsel for each side to question witnesses at the beginning or end of their public appearances. In the hearings the Minority used extensive yielding techniques so that designated individuals could question witnesses in a logically progressive order. But clearly, uninterrupted questioning by Members or counsel would make for a more forthcoming inquiry.

Given the fact that this Congressional inquiry surfaced twice as many White House contacts with the RTC and Treasury as the Special Counsel uncovered and that new information as well as certain ethical umbrages and prospective legal liabilities may have developed due to the hearing process, it would seem that the unprecedented buckling of Congress to the request of the Special Counsel not to investigate matters he is also investigating is not only unwarranted but problem-inducing. It is worth noting, again, that it is bad precedent and bad policy for the Congress to abdicate its constitutional obligations to oversee the Executive Branch simply because a U.S. Attorney or Special Counsel so requests. Every major S&L failure this Committee investigated in the past had a concomitant Justice Department probe underway. Likewise, more extraordinary issues like Watergate had House and Senate investigations ongoing with that of a Special Prosecutor.

Another lesson is that both the White House Counsel's office and the Treasury Department need a clearer policy regarding the distribution of law enforcement information relating to a public official involved in an ongoing criminal investigation, with the understanding that no public official should be considered privileged before the law.

But the primary lesson of these hearings relates to public ethics. There is no greater ethical issue than truthsaying; for without it there is no "trust." And without trust we cannot have credible governance.

Candor would appear, clear and simple, to have been a casualty of this process. When two intelligent people give opposite representations, one or the other is probably not telling the truth.

For instance, in his deposition to the Treasury Inspector General, Glion Curtis noted he had briefed Jean Hanson in early October on the development of the legal critique and that then or soon thereafter he showed her the analysis, which, he says, she copied. Ms. Hanson denied the meeting and any knowledge of the existence of the negative legal critique. If Mr. Curtis is telling the truth, and of the two parties he is the one who has the least reason not to, a question remains on the table of what happened to Ms. Hanson's copy of the critique.

Mr. Altman and Ms. Hanson, as we know, have very different and contradicting recollections on major events. Mr. Altman does not remember directing or suggesting that Ms. Hanson brief Mr. Nussbaum -- Ms. Hanson does. Mr. Altman doesn't recall the February 1, 1994, meeting with Secretary Bentsen at which the Secretary may have blessed their White House briefing -- Ms. Hanson does. And Mr. Altman doesn't recall hearing from Ms. Hanson about the first of her fall meetings -- her September 30, 1993, memo strongly suggests she did inform Mr. Altman.

Mr. Altman also has no recollection of Mr. Roelle briefing him on the first criminal referral shortly after he took over as Interim CEO. Putting aside Mr. Altman's testimony before the Senate -- which our colleagues in the Senate have already closely parsed --it surely appears that this lack of recollection strains credulity.

Here, by way of background, it is impressive that the White House staff who testified before us denied any involvement in the

series of Executive Branch decisions that resulted in the determination of the various agencies to refuse to provide standard oversight documentation to the Minority in Congress as it relates to the failure of Madison Guaranty. Whether or not Whitewater has become a larger issue of focus in American public life than it deserves, the precedents established may have longer term significance than any episodic embarrassment that might relate to this or any public official's past. What is at issue is the definition of Congress as it applies to the constitutionally implied oversight responsibilities of the legislature.

In our checks and balances system, Congress was given oversight responsibilities, but this Administration is suggesting in response to Minority requests for documentation from Executive agencies that only Chairmen speak for Congress. The Minority in Congress, by this logic, has no power to advance or fulfill its Constitutional rights and obligations if the Majority does not concur in requests for information. If such precedent is allowed to stand, Congress's oversight capacities will for all practical purposes be hamstrung whenever the Executive and Legislative branches of government are controlled by the same party. That is why the Minority has sought third party judicial review of its document requests.

As to Mr. Cutler's testimony itself, and the statement and chronology he submitted, each was crafted more in the manner of an advocacy brief than a disinterested assessment. His chronology, for example, was surprisingly superficial in many areas, particularly at those points when the conduct of certain attorneys in the Counsel's office was in question. The distinction, for example, between nonpublic confidential information of the type that Ms. Hanson provided Counsel Nussbaum -- over the implicit objection of the RTC -- with the purported inquiries by various reporters relating to the criminal referrals was strategically blurred. In addition, it was only as a result of the Minority pointing out the content of the September 30 Sloan notes that the White House acknowledged that key staff knew of the possibility Governor Tucker was a subject of the probe before the President met with him.

But it deserves stressing again that the fundamental basis for Mr. Cutler's clearing of his staff and others who work in the White House of ethical improprieties is his articulated assumption that one American is entitled to a "heads-up" on a criminal probe of a nature to which no other American is entitled. It is to this premise that the Minority, above all, objects. Based on the obverse, the democratic assumption that no one is privileged before the law, a neutral party would be obligated to arrive at very different assessments of the public ethics implications of White House actions.

For his part, Mr. Nussbaum, as expected, made a spirited defense of his conduct, but, incredibly, he characterized the Clinton related criminal referrals as "no big deal," even though he admitted during questioning that at the early stages of an investigation a witness can easily become a target upon further investigation, especially if the witness is viewed as a beneficiary of illegal acts.

Moreover, he never quite explained how it was that he justified advocating a non-recusal position with Mr. Altman on February 2, and suggesting to Jean Hanson that the civil enforcement case relating to Madison Guaranty might be shifted to Special Counsel Fiske, who apparently was considered by the White House at this stage less dangerous to the President than professionals at the RTC.

Mr. Nussbaum's lack of recollection of certain key facts was not exclusive. Mr. McLarty and Ms. Williams, the two chiefs of staff, could barely recall any discussions relating to Whitewater, let alone specific events in which they and others were participants. Ms. Williams' repeated refrain that she had never discussed her specific Whitewater actions with the First Lady made

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one wonder whether she actually worked for her. This was particularly true when she said she had never discussed with Mrs. Clinton the unflattering Altman diary entries which she had categorically denied making to Mr. Altman.

The memories of the witnesses from the Counsel's office were also noteworthy for their lack of precision. Mr. Eggleston could not recall any meeting with Mr. Lindsey during the first two weeks of October -- even though Mr. Sloan placed him at a briefing with Mr. Lindsey at least once and on a telephone call with Ms. Hanson on another occasion. Mr. Eggleston did not recall the fall meetings at the time of Mr. Altman's evasive Senate testimony in February. Although Mr. Sloan had a better recollection than Mr. Eggleston, he still could not parse his memory as to the critical September 30 phone call with Ms. Hanson. He did concede, however, that it could have included additional nonpublic information.

Mr. Ickes, meanwhile, could not recall any of the details of the discussions he had with the President and First Lady regarding the Altman recusal and the hiring of Jay Stephens.

Finally, Mr. Lindsey was not clear on the briefings he received from Mr. Nussbaum and Mr. Sloan prior to his briefing the President, and had no explanation of why it was he had neither sought nor had been given direction regarding what he could tell the President -- even though he had asked Mr. Sloan whether he could legally have that information. Particularly troubling is not only the subsequent meeting the President had with Governor Tucker, a defined subject of the probe, but also the fact Mr. Lindsey saw nothing improper about speaking from Air Force One, apparently just before he discussed the referrals with the President, with Mr. James Lyons, one of the Whitewater-issue lawyers used by the Clinton presidential campaign, even though the White House, according to Mr. Sloan's notes, had been informed that a prior Clinton campaign had been cited as a subject of one of the draft referrals. In this context, what then happened to the 1984 gubernatorial campaign records takes on added significance.

It strains credulity to believe that so many bright people -- supposedly schooled in political sensitivities -- could have so little collective recollection of so many critical facts.

The Minority believes that all participants in the events surrounding the development and transmittal of the criminal referrals should be given the benefit of the doubt in relation to legal liabilities, but it should be clear that the poor recollections and cumulative lack of judgment of these senior White House and Treasury officials raise serious questions about their trustworthiness to handle some of the most sensitive matters in our government. When trustworthiness erodes -- credible governance is no longer possible. Thus, even though the Special Counsel Mr. Fiske found no criminal law had been broken and Mr. Cutler -- who served as both witness for and judge of his client -- found no ethical rule had been broken -- it would nevertheless appear that the sacred trust between those governed and those who govern might very well have been broken.

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Mrs. Pryce

(For the record)
E-Mail Memo

To: John E. Ryan@CEO@RTCDC
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Mark Gabrellian@Legal-pls@RTCDC
Peter E. Knight@OGR@RTCDC

Cc:
Bcc:
From: April A. Breslaw@Legal-pls@RTCDC
Subject: Congressman Leach's statement
Date: Thursday, March 24, 1994 17:43:33 EST
Attach:
Certify: N
Forwarded by:

As you may know, Congressman Leach made a statement regarding the so-called "Whitewater" affair on the floor of the Congress today. At one point, he mad specific reference to me. I want you to know that I categorically deny makin the statement which he attributed to me. Mr. Leach said:

> On February 2, 1994, the day Roger Altman briefed the White House on Madison Guaranty, RTC Senior Attorney April Breslaw visited the Kansas City Office and said that Washington would like to say that Whitewater caused no losses to Madison.

I have never met Mr. Altman. I did not know that he was briefing the White House on February 2, 1994. On that date, I had not met either Ms. Kulka or Mr. Ryan. I did not say that anyone from Washington "would like to say" anything.

I would note that Ms. Lewis purports to be a "criminal" investigator. As such, she may not understand that in order to pursue a civil case, the plaintiff must be able to demonstrate that it sufferred a loss. (Of course, if a criminal defendant is shown to have caused monetary loss, he or she may be sentenced to make restitution if he or she is convicted. In that sense, "loss" is relevant to criminal matters.)

In any event, I met with Ms. Lewis briefly to see if she could shed some light on this element of the civil investigation. At the time, she seemed nervous and uncomfortable about the fact that her criminal referrals do not resolve the loss issue. She could not answer the main questions that I asked What was the ending balance of the Whitewater checking account? Was it left in overdraft status, which would have meant that a loss occurred?

It's my opinion that the defensive, political slant to her statement is simply an effort to drav attention away from her embarrassment over failing to document a key element of the investigation.

If at all possible, I request that the RTC issue a statement which clarifies the fact that I am not a political appointee, that I did not act at the request of political appointees, and that I categorically deny making the statements attributable to me. Thank you for considering my request.

ISBN 0-16-046476-5